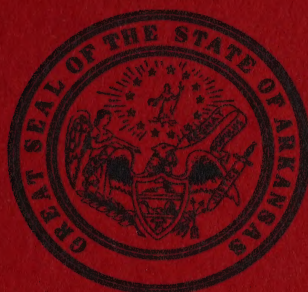


ARKANSAS CODE OF 1987 ANNOTATED



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Under the Direction and Supervision of the
ARKANSAS CODE REVISION COMMISSION

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Representative Jimmy Gazaway

Senator Bob Ballinger

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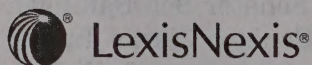
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TITLE 15

NATURAL RESOURCES AND ECONOMIC DEVELOPMENT

(CHAPTERS 40-76 IN VOLUME 13B)

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CHAPTER.

3. DIVISION OF SCIENCE AND TECHNOLOGY.
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5. ARKANSAS DEVELOPMENT FINANCE AUTHORITY.
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5. ARKANSAS ACCELERATION FUND ACT.
6. ARKANSAS BUSINESS AND TECHNOLOGY ACCELERATOR ACT.
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 15-3-133. Centers for applied technology — Advisory committees.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-3-101. Definitions.

As used in this subchapter:

- (1) "Applied research" means any activity which seeks to utilize, synthesize, or apply existing knowledge, information, or resources to the resolution of a specified problem, question, or issue;
- (2) "Basic research" means any original investigation for the advancement of scientific or technological knowledge;
- (3) "Construct" means to acquire or build, in whole or in part, in such manner and by such method, including contracting therefor, and if the latter, by negotiation or bidding upon such terms and pursuant to such advertising as the Arkansas Economic Development Commission shall determine to be in the public interest and necessary, under the circumstances existing at the time, to accomplish the purposes of and authorities set forth in this subchapter;
- (4) "Enterprise" means a business with its principal place of business in Arkansas and which is or proposes to be engaged in this state in manufacturing, research, and development, or the provision of services involving a significant amount of technology;

(5) "Equip" means to install or place on or in any building or structure equipment of any and every kind, whether or not affixed, including, without limiting the generality of the foregoing, building service equipment, fixtures, heating equipment, air conditioning equipment, machinery, laboratories, scientific equipment, furniture, furnishings, and personal property of every kind;

(6) "Facilities" means any real property, personal property, or mixed property of any and every kind that can be used or that will be useful in securing or developing industry, including science and high-technology, including, without limiting the generality of the foregoing, rights-of-way, roads, streets, pipes, pipelines, reservoirs, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, instrumentalities, and other real, personal, or mixed property of every kind;

(7) "Industry" shall include, but not be limited to, manufacturing facilities, warehouses, distribution facilities, repair and maintenance facilities, agricultural facilities, and corporate management offices for industry;

(8) "Initial capitalization" means financing that is provided for the development, refinement, and commercialization of a product or process and other working capital needs;

(9) [Repealed.]

(10) "Lease" means to lease for such rentals, for such period or periods, and upon such terms and conditions as the commission shall determine, including, without limiting the generality of the foregoing, the granting of such renewal or extension options for such rentals, for such period or periods, and upon such terms and conditions as the commission shall determine, and the granting of such purchase options for such prices and upon such terms and conditions as the commission shall determine;

(11) "Qualified security" means any note, stock, treasury stock bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable share, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application therefor, or in royalty or other payments under such a patent or application or, in general, any interest or instrument commonly known as a "security" or any certificate for, receipt for, guarantee of, or option, warrant, or right to subscribe to or purchase any of the foregoing, provided that in the valuation of "qualified security", no value shall be placed on in-kind services;

(12) "Scientific and technological project" means a project undertaken in Arkansas by an enterprise, which project the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission shall have determined promotes the purposes of this subchapter and otherwise benefits the state and its citizens; and

(13) "Sell" means to sell for such price, in such manner, and upon such terms as the commission shall determine, including, without

limiting the generality of the foregoing, private or public sale, and if public, pursuant to such advertisement as the commission shall determine, sell for cash or credit payable in lump sum or installments over such period as the commission shall determine, and if on credit, with or without interest and at such rate or rates as the commission shall determine.

History. Acts 1983, No. 859, § 19; 1985, No. 409, § 17; A.S.A. 1947, § 6-1619; Acts 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2017, No. 374, § 1.

Amendments. The 2017 amendment repealed (9).

15-3-104. Members.

(a) The Secretary of the Department of Commerce shall be advised by fourteen (14) directors, who together shall serve as the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission.

(b) Directors shall be legal residents of the State of Arkansas.

(c) The board shall consist of the Director of the Division of Higher Education or the Director of the Division of Higher Education's designee and thirteen (13) directors who shall be appointed by the Governor, subject to confirmation by the Senate, as follows:

(1) Three (3) directors shall be engineers or scientists recognized for their scientific or technological research efforts;

(2) Two (2) directors shall be appointed as representatives of academic institutions who have an extended extensive involvement in science and technology research;

(3) Five (5) directors shall be representatives of the private sector of the state, who shall be persons with knowledge or experience in the fields of agriculture, forestry, finance, economic development, or science and technology; and

(4) Three (3) directors shall be appointed as representatives of the private sector of the state, who shall be persons with knowledge or experience in the field of manufacturing.

(d) In making appointments, the Governor shall give consideration to geographical representation in order that each major area of the state will be represented on the board.

(e) Directors shall be appointed for terms running four (4) years from January 14 of the year of appointment. Directors shall hold office for the terms of their appointments and until their successors have been appointed and qualified.

(f) In the event of a vacancy in the position of director, the vacancy shall be filled by appointment by the Governor in the same manner as provided for the initial appointment for the remainder of the unexpired portion of the term of the director.

(g) No director shall serve more than two (2) terms of office.

(h) A director may be removed by the Governor for cause, stated in writing, after a hearing or upon joint address of a majority of the

membership of both houses of the General Assembly at a regular session, fiscal session, or extraordinary session.

(i) Unless otherwise provided by law, a director may receive expense reimbursement in accordance with § 25-16-901 et seq. Such expenses and mileage shall be paid from funds appropriated for such purpose or otherwise available to the Arkansas Economic Development Commission.

History. Acts 1975 (Extended Sess., 1976), No. 1035, § 1; 1983, No. 859, § 2; 1985, No. 409, § 2; A.S.A. 1947, §§ 6-616, 6-1602; reen. Acts 1987, No. 862, § 1; Acts 1995, No. 65, § 1; 1997, No. 250, § 91; 2001, No. 1288, § 6; 2009, No. 962, § 30; 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2019, No. 910, §§ 330, 331.

Amendments. The 2019 amendment substituted "Secretary of the Department of Commerce" for "Executive Director of the Arkansas Economic Development Commission" in (a); and substituted "Division of Higher Education" for "Department of Higher Education" twice in the introductory language of (c).

15-3-105. Organization.

Directors of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission shall annually elect from their membership one (1) member as chair, one (1) member as vice chair, and one (1) member as secretary.

History. Acts 1983, No. 859, § 2; 1985, No. 409, § 2; A.S.A. 1947, § 6-1602; Acts 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2019, No. 910, § 332.

Amendments. The 2019 amendment deleted the (a) designation and deleted (b).

15-3-108. Nature, powers, and duties generally.

(a) The Division of Science and Technology of the Arkansas Economic Development Commission shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated and additional powers as conferred upon it by the General Assembly, the Director of the Arkansas Economic Development Commission, or the people of this state.

(b) The director, with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, is authorized and designated to engage in undertakings, programs, enterprises, and activities involving agriculture, manufacturing, medical and healthcare, transportation, public utility services, research and development, and other programs involving the establishment and encouragement of science and technological research.

(c) The director, the division, and its board, employees, and agents shall be immune from civil liability for performing the duties under this subchapter.

(d) In the furtherance of the division's purposes, the director shall have all the powers necessary to carry out the division's purposes, which shall include, but not be limited to:

(1) Make, amend, and repeal bylaws and rules for the management of the affairs of the division;

(2) Adopt an official seal for the division;

(3) Sue and be sued in his or her own name;

(4) Make contracts and execute all instruments necessary or convenient for carrying out the business of the division;

(5) Acquire, own, hold, dispose of, and encumber real or personal property of any nature, both tangible and intangible, or any interest therein;

(6) Enter into agreements or other transactions with any federal, state, county, or municipal agency and with any individual, corporation, firm, association, or any other entity involving science and technology;

(7) Acquire real property or an interest in real property by purchase or foreclosure when such an acquisition is necessary or appropriate to protect or secure any investment or loan in which the division has an interest;

(8) Sell, transfer, and convey any such property to a buyer, and in the event the sale, transfer, or conveyance cannot be effected with reasonable promptness or at a reasonable price, lease the property to a tenant;

(9) Invest any funds appropriated by the state and held in reserve in funds not required for immediate disbursement, in investments that may be lawful for fiduciaries in the State of Arkansas, and invest funds received from gifts, grants, donations, and other operations of the division in investments that would be lawful for a private corporation having purposes similar to the division;

(10) Borrow money and give guaranties, provided that the indebtedness and other obligations of the division shall be payable solely out of its own resources and shall not constitute a pledge of the full faith and credit of the State of Arkansas or any of its revenues;

(11) [Repealed.]

(12) Appear on behalf of the division before boards, commissions, departments, or other agencies of municipal, county, state, or federal government;

(13) Procure insurance against any losses in connection with the properties of the division in amounts from insurers that may be necessary or desirable;

(14) Consent, subject to the provisions of any contract with noteholders, whenever he or she deems it necessary or desirable in the fulfillment of the purposes of this subchapter, to the modifications with respect to the rate of interest, time payment, or of any installment, of principal and interest, or any terms of any contract or agreement of any kind to which the division is a party;

(15)(A) Accept any and all donations, grants, bequests, and devises, conditional or otherwise, of money, property, services, or other things of value that may be received from the United States Government or

any agency thereof, any governmental agency, or any institution, person, firm, or corporation, public or private, to be held, used, or applied for any or all of the purposes specified in this subchapter in accordance with the terms and conditions of any such grant.

(B) Receipt of each such donation or grant shall be detailed in the annual report of the division.

(C) This report shall include the identity of the donor or lender, the nature of the transaction, and any conditions attaching thereto;

(16) Trade, buy, or sell qualified securities;

(17) Finance, conduct, or cooperate in the financing or conducting of scientific, technological, business, financial, or other investigations that are related or likely to lead to business and economic development involving science and technology by making and entering into contracts or other appropriate arrangements, including the provision of grants, loans, and other forms of assistance;

(18) Solicit, study, and assist in the preparation of business plans and proposals of new or established science and technologically oriented businesses and advance the state of science in Arkansas for those purposes;

(19) Prepare, publish, and distribute, with or without charge as the director may determine, such technological studies, reports, bulletins, and other materials as he or she deems appropriate, subject only to the maintenance and responsibility for confidentiality of the client's proprietary information;

(20) Organize, conduct, sponsor, or cooperate in and assist the conduct of special institutes, conferences, demonstrations, and studies relating to the stimulation and formulation of basic science, applied science, and technologically oriented businesses and studies relating to the formulation of scientific or technologically oriented business and industry endeavors;

(21) Own and possess patents, copyrights, and proprietary processes and enter into contracts and establish charges for the use of such patents, copyrights, and proprietary processes involving science or technology;

(22) Provide and pay for advisory services and technical assistance that may be necessary or desirable to carry out the purposes of this subchapter;

(23) Exercise any other powers necessary for the operation and functioning of the division within the purposes authorized in this subchapter;

(24)(A) Provide scientific and technological data and information required by the Governor, the General Assembly, or its committees, to state agencies and cities, counties, and school districts, and to private citizens and groups, within the limitations of the resources available to the division.

(B) This service shall be in addition to any services currently being provided to the General Assembly by any higher education institution, committee, or any other organization; and

(25) Prepare, publish, amend, and distribute a research and development plan to guide investments in research and commercialization, strategic research, and technology-based enterprises.

History. Acts 1983, No. 859, §§ 3, 4; 1985, No. 409, §§ 3-6; A.S.A. 1947, §§ 6-1603, 6-1604; Acts 2005, No. 183, § 1; 2007, No. 988, § 1; 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2019, No. 315, § 1050; 2019, No. 910, §§ 333-335.

Amendments. The 2019 amendment by No. 315, substituted “bylaws and rules” for “bylaws, rules, and regulations” in (d)(1).

The 2019 amendment by No. 910 substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (a); and deleted “executive” preceding “director” in (b), (c), and the introductory language of (d); and repealed (d)(11).

15-3-109. Power to carry out programs.

(a) In relation to the authorization under this subchapter to engage in undertakings, programs, enterprises, and activities involving research and development and other programs involving the establishment and encouragement of scientific and technological research, the Director of the Arkansas Economic Development Commission shall have all the powers necessary to carry out programs which include, but are not limited to:

(1) Funding basic research at Arkansas colleges and universities as specified in § 15-3-110;

(2) Stimulating applied research partnerships between private industry and Arkansas colleges and universities and matching funds from private sources for proposed applied research projects as specified in § 15-3-110;

(3) Assisting small businesses in identifying and applying for funds to conduct research and development work on innovative technical ideas;

(4) Transferring knowledge and technology from college, university, and government laboratories to private industry;

(5) Creating, in cooperation with Arkansas colleges and universities, facilities to foster the growth of technology-based enterprises;

(6) Developing emerging product and process technologies which contribute to business and economic growth;

(7) Engaging in innovative demonstration and pilot projects involving improved education and preparation of the future workforce in the areas of science, technology, and mathematics; and

(8) Transferring knowledge and technology from colleges, universities, government entities and laboratories, and other sources of innovation to public schools.

(b) In establishing and maintaining the programs authorized by this section, the director may utilize moneys as are lawfully available to the director for supporting the purposes of the Division of Science and Technology of the Arkansas Economic Development Commission.

History. Acts 1983, No. 859, § 15; 1985, No. 409, § 13; A.S.A. 1947, § 6-1615; Acts 1987, No. 210, § 1; 1989, No. 271, § 1; 1995, No. 456, § 1; 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2017, No. 374, § 2; 2019, No. 910, §§ 336, 337.

Amendments. The 2017 amendment deleted “drawn from the investment fund

and such other moneys” following “utilize moneys” in (b).

The 2019 amendment substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in the introductory language of (a); and deleted “executive” preceding “director” twice in (b).

15-3-110. Power to promote basic and applied research at Arkansas colleges and universities.

(a) The Director of the Arkansas Economic Development Commission may make such rules as he or she may deem appropriate to enable him or her to create and fund programs designed to promote basic research and applied research at Arkansas colleges and universities and to develop technology emerging from sources of innovation in this state, including, but not limited to, colleges and universities, federal laboratories, small businesses, and inventors.

(b)(1) In carrying out his or her functions under this section, the Director of the Arkansas Economic Development Commission may create such advisory committees as may be useful in evaluating research and development proposals.

(2) The memberships of these advisory committees may include both directors and staff members of the Division of Science and Technology of the Arkansas Economic Development Commission and other persons drawn from sources other than the division, all of whom shall serve at the pleasure of the Director of the Arkansas Economic Development Commission.

(3) Members of such advisory committees shall serve without compensation for their membership on such committees but may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c)(1) Any moneys lawfully available to the division for the purpose of supporting basic research at Arkansas colleges and universities shall in no event defray more than sixty percent (60%) of the total cost of the proposed basic research project being funded.

(2) The remaining forty percent (40%) of the total cost of the proposed basic research project shall be funded by moneys or in-kind services provided by the college or university proposing the basic research project.

(d)(1)(A) Any moneys lawfully available to the division for the purpose of creating applied research partnerships between private industry and Arkansas colleges and universities shall in no event defray more than fifty percent (50%) of the total cost of the proposed applied research project.

(B) However, the contribution of the Director of the Arkansas Economic Development Commission may defray up to sixty-six and two-thirds percent (66⅔%) of the total cost of a proposed applied research project if the Director of the Arkansas Economic Develop-

ment Commission, with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, finds that the participating private industry is principally located in Arkansas and employs fifty (50) or fewer persons.

(2) The proposed applied research project shall be submitted by an Arkansas college or university, and the proposal shall state that a percentage of the total cost of the proposed applied research project will be provided by private sources in accordance with the matching provisions of this subsection.

(3) The Director of the Arkansas Economic Development Commission shall approve for funding only those proposed applied research projects for which the Director of the Arkansas Economic Development Commission finds that enhanced employment opportunity within Arkansas will be a likely result.

(e)(1) Any moneys lawfully available to the division for the purpose of supporting technology development shall in no event exceed one hundred thousand dollars (\$100,000) per project being funded.

(2) The Director of the Arkansas Economic Development Commission shall impose a reasonable, nonrefundable fee for the evaluation of the technological and economic potential of emerging technologies contained in proposals from nonpublic sources of innovation.

(3) The Director of the Arkansas Economic Development Commission is authorized to incorporate a royalty provision not to exceed five percent (5%) of net sales revenue per year for a period of not more than ten (10) years as a condition of award.

(4) The Director of the Arkansas Economic Development Commission shall approve for funding only those proposed technology development projects for which the Director of the Arkansas Economic Development Commission finds that enhanced economic opportunity within Arkansas will be a likely result.

History. Acts 1983, No. 859, § 16; 1985, No. 409, § 14; A.S.A. 1947, § 6-1616; Acts 1987, No. 210, § 2; 1989, No. 271, § 2; 1997, No. 250, § 92; 2005, No. 1232, § 11; 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2019, No. 315, § 1051; 2019, No. 910, §§ 338-341.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (a).

The 2019 amendment by No. 910 substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (a); and substituted "Director of the Arkansas Economic Development Commission" for "executive director" throughout the section.

15-3-111. Additional powers.

The Director of the Arkansas Economic Development Commission shall have such additional powers and duties as may be hereafter delegated to or imposed upon him or her from time to time by the General Assembly.

History. Acts 1983, No. 859, § 5; A.S.A. 1947, § 6-1605; Acts 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2019, No. 910, § 342.

Amendments. The 2019 amendment

substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission”.

15-3-112. Prohibition on personal interest in contracts.

(a) No director, officer, or employee of the Division of Science and Technology of the Arkansas Economic Development Commission or of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, for purpose of personal gain, shall have or attempt to have, directly or indirectly, any interest in any contract or agreement of the division in connection with the qualified investments or other programs of the division.

(b) The Director of the Arkansas Economic Development Commission shall not invest, pursuant to § 15-3-122, in any qualified security of:

(1) Any enterprise that is owned, wholly or partially, directly or indirectly, by any director or officer of the division; or

(2) Any enterprise that employs a director of the division.

(c) It shall not be a violation of this section for the Director of the Arkansas Economic Development Commission to permit any college, university, or other nonprofit institution with which a director is affiliated to participate in any program of the division, provided that the director shall promptly disclose the nature of the affiliation to the board.

(d)(1) It shall not be a violation of this section for the Director of the Arkansas Economic Development Commission to permit a manufacturer or other for-profit entity with which a director is affiliated to pay to the division fees for services and receive, in return for those fees, services:

(A) That are generally available to all manufacturers or other for-profit entities; and

(B) That are not available to the manufacturer or other for-profit entity solely due to its affiliation with a director.

(2)(A) A director affiliated with a manufacturer or other for-profit entity that enters into a contract or an agreement pursuant to subdivision (d)(1) of this section shall disclose the contract or agreement in writing to the Director of the Arkansas Economic Development Commission.

(B) The Director of the Arkansas Economic Development Commission shall inform the board of the contract or agreement at its next regularly scheduled meeting and attach a copy of the written disclosure to the minutes of that meeting.

History. Acts 1983, No. 859, § 17; 1985, No. 409, § 15; A.S.A. 1947, § 6-1617; Acts 2007, No. 988, § 2; 2015 (1st

Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2019, No. 910, § 343.

Amendments. The 2019 amendment

substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in the intro-

ductory language of (b); and substituted "Director of the Arkansas Economic Development Commission" for "executive director" throughout (c) and (d).

15-3-113. Studies, planning, and recommendations — Cooperation with other agencies.

(a) The Division of Science and Technology of the Arkansas Economic Development Commission shall, from time to time, make studies and develop plans and programs in the sciences and technologies to support industrial development in certain areas of research and development.

(b) The Director of the Arkansas Economic Development Commission shall recommend to the General Assembly proposed laws and rules to support the growth and development of programs and research in the sciences and specialized areas of high technology.

(c) The director may provide leadership and assistance in cooperation with the Arkansas Public Service Commission, or any other federal, state, county, or municipal authority and to private industries in this state, for the adoption and execution of any improvements, changes in methods of operation, rates of transportation, utilities, and zoning and building requirements and covenants which, in the opinion of the director, may be designed to improve or better operate the existing programs and research in the sciences and specific areas of high technology and related industrial development.

History. Acts 1983, No. 859, § 6; A.S.A. 1947, § 6-1606; Acts 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2019, No. 315, § 1052; 2019, No. 910, § 344.

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in (b).

The 2019 amendment by No. 910 substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (b); and deleted "executive" preceding "director" twice in (c).

15-3-116. Deposit of moneys — Audit.

(a) All moneys coming into the hands of the Division of Science and Technology of the Arkansas Economic Development Commission shall be deposited into one (1) or more financial institutions selected by the Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission and authorized to do business in this state.

(b) Moneys received by the division from appropriations of the General Assembly shall be deposited, administered, and accounted for in such manner as the General Assembly may provide.

(c) The director shall provide for an audit to be performed and accepted by a certified public accountant or firm within sixty (60) days following the conclusion of each fiscal year of the division and shall file copies thereof with the Legislative Joint Auditing Committee.

(d) The Legislative Joint Auditing Committee may accept such audit report or direct an audit of the financial record of the division by the staff of the Legislative Joint Auditing Committee.

History. Acts 1983, No. 859, § 7; A.S.A. 1947, § 6-1607; Acts 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2019, No. 910, §§ 345, 346.

Amendments. The 2019 amendment substituted "Director of the Arkansas Eco-

nomic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (a); and deleted "executive" preceding "director" in (c).

15-3-122. Purchase of qualified securities — Prerequisites — Advisory committees.

(a) The Arkansas Economic Development Commission may utilize moneys as appropriated by the General Assembly to purchase qualified securities issued by enterprises as a part of a scientific and technological project for the purpose of raising the initial capitalization for such scientific and technological projects subject to the conditions set forth in this section.

(b) The commission shall purchase qualified securities issued by an enterprise as a part of a scientific and technological project only after:

(1) Receipt of an application from the enterprise which contains:

(A) A business plan, including a description of the enterprise and its management, product, and market;

(B) A statement of the amount, timing, and projected use of the capital required;

(C) A statement of the potential economic impact of the enterprise, including the number, location, and types of jobs expected to be created; and

(D) Such other information as the commission shall request; and

(2) Approval of the investment by the Director of the Arkansas Economic Development Commission, with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, after the director shall find, based upon the application submitted by the enterprise and such additional investigation as the staff of the commission shall make, and incorporate in its minutes that:

(A) The proceeds of the investment will only be used to cover the initial capitalization needs of the enterprise except as hereinafter authorized;

(B) The enterprise has a reasonable chance of success;

(C) The commission's participation is necessary to the success of the enterprise because funding for the enterprise is unavailable in the traditional capital markets or because funding has been offered on terms that would substantially hinder the success of the enterprise;

(D) The enterprise has the reasonable potential to create a substantial amount of primary employment within the state;

(E) The entrepreneur and other founders of the enterprise have already made or are contractually committed to make a substantial financial and time commitment to the enterprise;

(F) The securities to be purchased are qualified securities;

(G) There is a reasonable possibility that the commission will recoup at least its initial investment; and

(H) Binding commitments have been made to the commission by the enterprise for adequate reporting of financial data to the commission, which shall include a requirement for an annual or other periodic audit of the books of the enterprise and for such control on the part of the commission as the director shall consider prudent over the management of the enterprise so as to protect the investment of the commission, including, in the discretion of the director and without limitation, right of access to financial and other records of the enterprise.

(c)(1) In carrying out his or her functions under this section, the director may create such advisory committees as may be useful in evaluating potential investments in qualified securities.

(2) The memberships of these advisory committees may include both directors of the board and staff members of the commission and other persons drawn from sources other than the commission, all of whom shall serve at the pleasure of the director.

(3) Members of these advisory committees shall serve without compensation for their membership on the committees but may receive expense reimbursement in accordance with § 25-16-901 et seq.

(d) The commission shall not make investments in qualified securities issued by enterprises in excess of the following limits:

(1) Not more than five hundred thousand dollars (\$500,000) shall be invested in the qualified securities of any one (1) enterprise; and

(2) The commission shall not own securities representing more than forty-nine percent (49%) of the voting stock of any one (1) enterprise at the time of the purchase by the commission, after giving effect to the conversion of all outstanding convertible securities of the enterprise. However, in the event of severe financial difficulty of the enterprise threatening, in the judgment of the director, the investment of the commission therein, a greater percentage of such securities may be owned by the commission.

(e) The commission may not invest nor may it commit to invest in any qualified securities prior to the commission's adopting rules to govern the programs authorized under this section.

History. Acts 1983, No. 859, § 14; 1985, No. 409, § 12; A.S.A. 1947, § 6-1614; Acts 1997, No. 250, § 93; 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2017, No. 374, § 3.

Amendments. The 2017 amendment substituted "moneys as appropriated by the General Assembly" for "the investment fund" in (a).

15-3-132. Centers for applied technology — Criteria — Designation.

(a) The Division of Science and Technology of the Arkansas Economic Development Commission shall:

(1) Identify technological areas for which centers for applied technology should be designated, including, but not limited to, technological areas that are related to enterprises with significant potential for economic growth and development in Arkansas and areas that are related to the enhancement of productivity in various enterprises in Arkansas;

(2) Establish, in consultation with the Division of Higher Education, criteria that must be satisfied for designation as a center, including, but not limited to:

(A) An established record of research, development, and instruction in the area of technology;

(B) The capacity to conduct research and development activities in collaboration with private enterprises;

(C) The capacity to secure substantial private and other government funding for the proposed center;

(D) The ability and willingness to cooperate with other colleges and universities in conducting research and development activities and in disseminating research results and to work with institutions of higher learning to enhance the quality of technological education in the area or areas of technology involved; and

(E) The ability and willingness to cooperate with the Division of Science and Technology of the Arkansas Economic Development Commission, the Arkansas Economic Development Council, and other economic development agencies in promoting the growth and development in Arkansas of enterprises based upon or benefiting from the areas of technology involved; and

(3) Designate, using a competitive selection process, those centers for applied technology to be created in cooperation with colleges and universities in the state.

(b) The Division of Science and Technology of the Arkansas Economic Development Commission may not designate technological areas or establish centers prior to the Division of Science and Technology of the Arkansas Economic Development Commission's adopting rules to govern the program authorized under this section, §§ 15-3-130, 15-3-131, 15-3-133, and 15-3-134.

History. Acts 1989, No. 803, §§ 2, 6; 1997, No. 540, § 18; 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2019, No. 910, § 347.

Amendments. The 2019 amendment

substituted "Division of Higher Education" for "Department of Higher Education" in the introductory language of (a)(2).

15-3-133. Centers for applied technology — Advisory committees.

(a) In carrying out its functions under this section, §§ 15-3-130 — 15-3-132, and 15-3-134, the Division of Science and Technology of the Arkansas Economic Development Commission may create such advisory committees as may be useful in evaluating potential technological areas and centers for applied technology.

(b) The memberships of these advisory committees may include both directors and staff members of the division and other persons drawn from sources other than the division, all of whom shall serve at the pleasure of the Director of the Arkansas Economic Development Commission.

(c) Members of such advisory committees shall serve without compensation for their membership on such committees but may receive expense reimbursement in accordance with § 25-16-901 et seq.

History. Acts 1989, No. 803, § 5; 1997, No. 250, § 94; 2015 (1st Ex. Sess.), No. 7, § 76; 2015 (1st Ex. Sess.), No. 8, § 76; 2019, No. 910, § 348.

substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (b).

Amendments. The 2019 amendment

SUBCHAPTER 2 — ARKANSAS RESEARCH MATCHING FUND

SECTION.

15-3-203. Administration.

15-3-204. Disbursement of funds.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-3-203. Administration.

(a) In order to obtain moneys from the Arkansas Research Matching Fund:

(1) A college or university may provide the Arkansas Economic Development Commission with the research grant proposal for federal funds submitted with a letter of intent to apply for a match to one (1) of the funding agencies identified in § 15-3-205;

(2)(A) A college or university shall apply to the commission for a match from this fund in writing within two (2) weeks of the notice of an award of federal funds from one (1) of the funding agencies identified in § 15-3-205.

(B) In addition to the grant proposal submitted to the federal agency, the application shall include an approved budget and an official notice of the grant award from the federal funding agency; and

(3) A college or university shall adhere to the rules that may be promulgated by the commission for administration of this fund.

(b)(1) Upon receipt of an application for matching funds to match federal funds from one (1) of the funding agencies identified in § 15-3-205, the commission, with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, shall determine the eligibility for matching funds based on a finding that the proposed research is in fields having long-term economic or commercial value to the state and which have been identified in the research and development plan approved by the Director of the Arkansas Economic Development Commission.

(2) The commission shall promptly review applications for matching funds for consistency with this subchapter.

(3) The commission shall ensure that no commitments for matching funds shall be made in excess of funds available for any given year and may review and approve those applications that have:

(A) Provided the information on the application for matching funds in accordance with the provisions of this subchapter;

(B) Included an official notice of award of a research grant from one (1) of the funding agencies identified in § 15-3-205; and

(C) Filed a proposal for federal funding consistent with the types of research authorized by this subchapter.

History. Acts 1999, No. 1545, § 3; 2003, No. 417, § 1; 2015 (1st Ex. Sess.), No. 7, § 78; 2015 (1st Ex. Sess.), No. 8, § 78; 2019, No. 315, § 1053; 2019, No. 910, § 349.

The 2019 amendment by No. 910 substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (b)(1).

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (a)(3).

15-3-204. Disbursement of funds.

(a) The matching funds authorized by this subchapter are to be used primarily to attract federal funds to the state for basic and strategic research.

(b) The Director of the Arkansas Economic Development Commission, with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission, may approve multi-year research grants, but disbursements of the matching funds authorized by this subchapter shall be for no more than a twelve-month period.

History. Acts 1999, No. 1545, § 4; 2015 (1st Ex. Sess.), No. 7, § 79; 2015 (1st Ex. Sess.), No. 8, § 79; 2019, No. 910, § 350.

Amendments. The 2019 amendment

substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (b).

SUBCHAPTER 5 — ARKANSAS ACCELERATION FUND ACT

SECTION.

15-3-502. Legislative intent.

15-3-503. Advice and recommendations.

SECTION.

15-3-505. [Repealed.]

Effective Dates. Acts 2017, No 165, § 3: Oct. 1, 2017.

Acts 2017, No 166, § 3: Oct. 1, 2017.

15-3-502. Legislative intent.

(a) The General Assembly finds that in October 2008 the Arkansas Task Force for the 21st Century Economy found and recommended that:

(1) Education, research and development, entrepreneurship, risk capital, existing business innovation, and cyberinfrastructure are the most critical roles to Arkansas’s success in the twenty-first century global economy;

(2) Twenty-six (26) programs, initiatives, and constitutional issues be given priority consideration as being key to competitiveness and contributing to economic development in the twenty-first century global economy;

(3) Resources should be dedicated to further study the structure and effectiveness of the state’s economic development organizations because economic development is ever changing and the continuing review will provide information about twenty-first century demands on the organizations; and

(4) Arkansas should create a dedicated revenue stream for funding twenty-first century business development.

(b) The General Assembly further finds that Arkansas:

(1) Needs an approach to an economy supported by knowledge-based jobs; and

(2) Lacks a recurring and predictable funding formula for economic development.

History Acts 2011, No. 706, § 1; 2017, No. 167, § 1.

Amendments. The 2017 amendment

deleted “in 2009 the Arkansas Governor’s Strategic Plan for Economic Development identified that” following “that” in (b).

15-3-503. Advice and recommendations.

(a) The Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission shall advise the

Governor, the General Assembly, the Arkansas Economic Development Commission, and other agencies responsible for programs enumerated in subsection (b) of this section.

(b)(1) The board shall make recommendations regarding support and assistance for the accelerated growth of knowledge-based and high-technology jobs in the state through focused funding of the state's initiatives and programs.

(2) For funds in or allocated to the Arkansas Acceleration Fund, § 19-5-1243, the board shall make recommendations to the commission regarding the allocation or reallocation of funds and moneys for programs and initiatives authorized by the:

(A) Arkansas Research Alliance Act, § 15-3-301 et seq.;

(B) Innovate Arkansas Fund, § 19-5-1237;

(C) Venture Capital Investment Act of 2001, § 15-5-1401 et seq.;

(D) Supplemental science, technology, engineering, and math fund grants under § 6-17-2701 et seq.;

(E) Existing programs of the commission authorized under § 15-3-101 et seq., § 15-3-201 et seq., and § 15-3-401 et seq.;

(F) [Repealed.]

(G) Any other programs or activities aimed at the creation of knowledge-based and high-technology jobs;

(H) Arkansas Business and Technology Accelerator Act, § 15-3-601 et seq.; and

(I) Arkansas Small Business Innovation Research Matching Grant Program, § 15-3-701 et seq.

History Acts 2011, No. 706, § 1; 2013, No. 1095, § 1; 2015 (1st Ex. Sess.), No. 7, § 88; 2015 (1st Ex. Sess.), No. 8, § 88; 2017, No. 165, § 1; 2017, No. 166, § 1; 2017, No. 167, § 2; 2019, No. 237, § 2; 2019, No. 925, § 1.

Amendments. The 2017 amendment by No. 165 added (b)(2)(H).

The 2017 amendment by No. 166 added (b)(2)(I).

The 2017 amendment by No. 167 rewrote the section heading; in (a), substituted "Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission" for "Arkansas Research Alliance" and substituted "advise" for "serve in an advisory capacity to"; in (b)(1), substituted "board"

for "Arkansas Research Alliance"; inserted "or allocated to" and substituted "board" for "Arkansas Research Alliance" in (b)(2); deleted "the Arkansas Research Alliance Act, § 15-3-301 et seq." following "15-3-201 et seq." in (b)(2)(E); deleted (b)(3); and made stylistic changes.

The 2019 amendment by No. 237 repealed (b)(2)(F).

The 2019 amendment by No. 925 substituted "Venture Capital Investment Act of 2011, § 15-5-1401 et seq." for "Arkansas Risk Capital Matching Fund Act of 2007, § 15-5-1601 et seq." in (b)(2)(C).

Effective Dates. Acts 2017, No. 165, § 3: Oct. 1, 2017.

Acts 2017, No. 166, § 3: Oct. 1, 2017.

15-3-505. [Repealed.]

Publisher's Notes. This section, concerning recommendations, was repealed by Acts 2017, No. 167, § 3. The section was derived from Acts 2011, No. 706, § 1;

2013, No. 1095, § 3; 2015 (1st Ex. Sess.), No. 7, § 89; 2015 (1st Ex. Sess.), No. 8, § 89.

SUBCHAPTER 6 — ARKANSAS BUSINESS AND TECHNOLOGY ACCELERATOR ACT**SECTION.**

- 15-3-601. Title.
 15-3-602. Legislative findings.
 15-3-603. Definitions.
 15-3-604. Administration.
 15-3-605. Application requirements.

SECTION.

- 15-3-606. Business and technology accelerator grant awards.
 15-3-607. Program funding.
 15-3-608. Rules.

Effective Dates. Acts 2017, No. 165, § 3: Oct. 1, 2017.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emer-

gency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-3-601. Title.

This subchapter shall be known and may be cited as the "Arkansas Business and Technology Accelerator Act".

History Acts 2017, No. 165, § 2.

15-3-602. Legislative findings.

The General Assembly finds that:

(1) Corporate growth requires the infusion of innovative ideas, products, and services;

(2) A critical component of creating high-skilled, high-wage jobs is the encouragement of the Arkansas innovation entrepreneurial ecosystem to develop technological products and services;

(3) Economic growth can be fostered by linking innovative new ideas, products, and services by entrepreneurs and start-up companies to corporate sponsors seeking the commercialization of new products and services; and

(4) An inducement, in the form of a grant program, is needed to encourage Arkansas businesses to sponsor business and technology programs to mentor start-up companies, resulting in an infusion of new products and services to fuel corporate growth.

History Acts 2017, No. 165, § 2.

15-3-603. Definitions.

As used in this subchapter:

(1) “Business and technology accelerator” means a full-time, immersive program administered by an eligible applicant to potentially invest in, mentor, and accelerate commercial development of start-up businesses;

(2) “Business and technology accelerator grant” means a discretionary grant of up to two hundred fifty thousand dollars (\$250,000) for each approved business and technology accelerator application; and

(3) “Eligible applicant” means an entity that is:

(A) Registered as a business entity in good standing with the Secretary of State; and

(B) Principally engaged in one (1) or more of the following categories of business or industry:

(i) A manufacturer classified in sectors 31-33 of the 2012 North American Industry Classification System;

(ii) A business that:

(a) Is primarily engaged in the design and development of pre-packaged software, digital content production and preservation, computer processing and data preparation services, or information retrieval services; and

(b) Derives at least seventy-five percent (75%) of its sales revenue from out of state;

(iii) An office sector business whose business operations support primary business needs, including without limitation customer service, credit accounting, telemarketing, claims processing, and other administrative functions that:

(a) Is a nonretail business; and

(b) Derives at least seventy-five percent (75%) of its sales revenue from out of state;

(iv) A national or regional corporate headquarters as classified in code 551114 of the 2012 North American Industry Classification System;

(v) A scientific and technical services business that derives at least seventy-five percent (75%) of its sales revenue from out of state;

(vi) A firm primarily engaged in commercial, physical, and biological research as classified in code 541711 or code 541712 of the 2012 North American Industry Classification System; and

(vii) A firm engaged in one (1) or more of the following categories:

(a) Advanced materials and manufacturing systems;

(b) Agriculture, food processing, and environmental sciences;

(c) Biotechnology, bioengineering, and life sciences;

(d) Information technology;

(e) Transportation logistics; and

(f) Internet-enabled technology or service solutions for one (1) or more of the categories described in subdivisions (3)(B)(vii)(a)-(e) of this section.

History Acts 2017, No. 165, § 2.

15-3-604. Administration.

(a)(1) The Arkansas Business and Technology Accelerator Grant Program is created.

(2) The Division of Science and Technology of the Arkansas Economic Development Commission shall administer the program.

(b) The division shall:

(1) Create application forms to be submitted by eligible businesses seeking a business and technology accelerator grant from the program;

(2) Devise an application process that:

(A) Defines the eligibility criteria for a business and technology accelerator grant; and

(B) Establishes application submittal and review processes;

(3) Define a process by which business and technology accelerator grants may be awarded; and

(4) Execute standard legal grant agreements and other documentation governing the disbursement and use of business and technology accelerator grants.

History Acts 2017, No. 165, § 2.

15-3-605. Application requirements.

(a) To request a business and technology accelerator grant under this subchapter, an applicant shall complete and submit the application forms prescribed by the Division of Science and Technology of the Arkansas Economic Development Commission under § 15-3-604.

(b) An applicant shall submit an application for each proposed business and technology accelerator grant.

(c) The division shall:

(1) Review applications:

(A) In order of receipt, as determined by the date and time stamp of receipt; and

(B) In accordance with rules promulgated by the division under § 15-3-608;

(2) Not consider an incomplete or noncompliant application and shall return an incomplete or a noncompliant application without further review;

(3) Review each application with the advice and recommendation of the Commercialization Committee of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission; and

(4) Provide advice to the Director of the Arkansas Economic Development Commission concerning the applications for business and technology accelerator grants reviewed by the division.

(d)(1) Applications submitted to the division are subject to the Freedom of Information Act of 1967, § 25-19-101 et seq.

(2) To the extent an applicant believes that information in an application is confidential or otherwise exempt under the Freedom of Information Act of 1967, § 25-19-101 et seq., the applicant shall specifically designate in writing the information the applicant believes to be confidential or exempt and the basis for the confidentiality or exemption on that portion of the application in which the information appears.

History Acts 2017, No. 165, § 2; 2019, No. 910, § 351.

Amendments. The 2019 amendment substituted “Director of the Arkansas Eco-

nomics Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (c)(4).

15-3-606. Business and technology accelerator grant awards.

(a) A business and technology accelerator grant awarded under this subchapter:

(1) Shall not:

(A) Be awarded under this subchapter unless offered in writing by the Director of the Arkansas Economic Development Commission; and

(B) Exceed two hundred fifty thousand dollars (\$250,000); and

(2) Subject to funding and the discretion of the director, may be offered to an eligible applicant that successfully completes the application process.

(b) The business and technology accelerator grant agreement between the Division of Science and Technology of the Arkansas Economic Development Commission and the eligible applicant shall delineate all requirements of the business and technology accelerator grant.

(c) Disbursements for business and technology accelerator grants shall be made on a reimbursable basis, payable when invoices and financial reports are submitted to the division.

History Acts 2017, No. 165, § 2; 2019, No. 910, §§ 352, 353.

Amendments. The 2019 amendment substituted “Director of the Arkansas Economic Development Commission” for “Ex-

ecutive Director of the Arkansas Economic Development Commission” in (a)(1)(A); and deleted “executive” preceding “director” in (a)(2).

15-3-607. Program funding.

Business and technology accelerator grants awarded under this subchapter are limited by the amount of funds allocated to the Arkansas Business and Technology Accelerator Grant Program created under this subchapter.

History Acts 2017, No. 165, § 2.

15-3-608. Rules.

The Division of Science and Technology of the Arkansas Economic Development Commission shall promulgate rules to implement and administer this subchapter.

History Acts 2017, No. 165, § 2.

SUBCHAPTER 7 — ARKANSAS SMALL BUSINESS INNOVATION RESEARCH
MATCHING GRANT PROGRAM

SECTION.	SECTION.
15-3-701. Title.	15-3-706. Application requirements.
15-3-702. Legislative findings.	15-3-707. Matching grant awards.
15-3-703. Definitions.	15-3-708. Program funding.
15-3-704. Administration.	15-3-709. Rules.
15-3-705. Eligibility.	

Effective Dates. Acts 2017, No. 166, § 3: Oct. 1, 2017.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emer-

gency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-3-701. Title.

This subchapter shall be known and may be cited as the “Arkansas Small Business Innovation Research Matching Grant Program”.

History Acts 2017, No. 166, § 2.

15-3-702. Legislative findings.

The General Assembly finds that:

- (1) The federal Small Business Innovation Research Program encourages innovative small businesses to engage in federal research and commercialization that has the potential for technological innovation and commercialization;
- (2) Stimulating research and commercialization grows the economy by leveraging investment, creating exportable products and services, and creating and retaining high-wage, high-tech jobs in moderately and highly skilled occupations;

(3) Arkansas consistently ranks poorly among states in the number of federal Small Business Innovation Research grants awarded; and

(4) An inducement, in the form of a matching grants program, is needed to encourage Arkansas businesses to apply for federal Small Business Innovation Research grants and realize economic benefits of commercialized research.

History Acts 2017, No. 166, § 2.

15-3-703. Definitions.

As used in this subchapter:

(1) “Eligible business” means a for-profit business that:

(A) Is registered as a business entity in good standing with the Secretary of State; and

(B) Has its principal place of business in Arkansas;

(2) “Matching grant” means a discretionary grant of up to fifty percent (50%) of the amount of a federal Small Business Innovation Research grant for each approved matching grant application;

(3) “Principal investigator/project manager” means the primary individual designated by an eligible business to provide the scientific and technical direction to a project supported by a matching grant; and

(4) “Small Business Innovation Research Program” means the federal program administered by the United States Small Business Administration according to regulations adopted pursuant to 15 U.S.C. § 638, as it existed on October 1, 2016, which provides funds for Phase I and Phase II Small Business Innovation Research grants through participating federal agencies.

History Acts 2017, No. 166, § 2.

15-3-704. Administration.

(a)(1) The Arkansas Small Business Innovation Research Matching Grant Program is created.

(2) The Division of Science and Technology of the Arkansas Economic Development Commission shall administer the program.

(b) The division shall:

(1) Create application forms to be submitted by eligible businesses seeking a matching grant from the program;

(2) Devise an application process that:

(A) Defines the eligibility criteria for a matching grant; and

(B) Establishes application submittal and review processes;

(3) Define a process by which matching grants may be awarded; and

(4) Execute standard legal grant agreements and other documentation governing the disbursement and use of matching grants.

History Acts 2017, No. 166, § 2.

15-3-705. Eligibility.

(a) To be eligible for a matching grant under this subchapter, an applicant shall:

(1) Be an eligible business; and

(2) Certify that:

(A) The eligible business:

(i) For Phase I applications, has received a Small Business Innovation Research grant from a sponsoring agency in response to a specific federal solicitation; or

(ii) For Phase II applications, has:

(a) Submitted a final Phase I report to the sponsoring agency;

(b) Demonstrated that the sponsoring agency has interest in the Phase II proposal; and

(c) Submitted a Phase II proposal to the sponsoring agency; and

(B) All federal Small Business Innovation Research grant requirements will be met.

(b) An eligible business awarded a matching grant under this subchapter shall:

(1) Remain in Arkansas for the duration of the matching grant project;

(2) Designate an Arkansas resident or employee as the principal investigator/project manager during the duration of the matching grant; and

(3) Be principally engaged in one (1) or more of the following targeted business activities:

(A) Advanced materials and manufacturing systems;

(B) Agriculture, food, and environmental sciences;

(C) Biotechnology, bioengineering, and life sciences;

(D) Information technology;

(E) Transportation logistics; and

(F) Bio-based products.

History Acts 2017, No. 166, § 2; 2019, No. 384, § 1.

Amendments. The 2019 amendment added "and" in (a)(1).

15-3-706. Application requirements.

(a) To request a matching grant under this subchapter, an applicant shall complete and submit the application forms prescribed by the Division of Science and Technology of the Arkansas Economic Development Commission under § 15-3-704.

(b) An applicant shall submit an application for each federal Phase I and federal Phase II grant proposal for which the applicant is requesting a matching grant.

(c) The division shall:

(1) Review applications:

(A) In order of receipt, as determined by the date and time stamp of receipt; and

(B) In accordance with rules promulgated by the division under § 15-3-709;

(2) Not consider an incomplete or noncompliant application and shall return an incomplete or a noncompliant application without further review;

(3) Review each application with the advice and recommendation of the Commercialization Committee of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission; and

(4) Provide advice to the Director of the Arkansas Economic Development Commission concerning the applications for matching grants reviewed by the division.

(d)(1) Applications submitted to the division are subject to the Freedom of Information Act of 1967, § 25-19-101 et seq.

(2) To the extent an applicant believes that information in an application is confidential or otherwise exempt under the Freedom of Information Act of 1967, § 25-19-101 et seq., the applicant shall specifically designate in writing the information the applicant believes to be confidential or exempt and the basis for the confidentiality or exemption on that portion of the application in which the information appears.

History Acts 2017, No. 166, § 2; 2019, No. 910, § 354.

Amendments. The 2019 amendment substituted "Director of the Arkansas Eco-

nomics Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (c)(4).

15-3-707. Matching grant awards.

(a) A matching grant awarded under this subchapter:

(1) Shall not:

(A) Be awarded under this subchapter unless offered in writing by the Director of the Arkansas Economic Development Commission; and

(B) Exceed fifty percent (50%) of the federal Small Business Innovation Research award, up to:

(i) Fifty thousand dollars (\$50,000) for a matching grant awarded to match a federal Phase I award; and

(ii) One hundred thousand dollars (\$100,000) for a matching grant awarded to match a federal Phase II award; and

(2) Subject to funding and the discretion of the director, may be offered to an eligible applicant that successfully completes the application process.

(b) The matching grant agreement between the Division of Science and Technology of the Arkansas Economic Development Commission and the eligible applicant shall delineate all requirements of the matching grant.

(c) At least fifty-one percent (51%) of the amount awarded for the matching grant shall be spent in Arkansas.

(d) Disbursements for matching grants shall be made on a reimbursable basis; payable when invoices and financial reports are submitted to the division.

(e) An eligible business shall not receive more than three (3) matching grants under this subchapter.

History Acts 2017, No. 166, § 2; 2019, No. 910, § 355.

Amendments. The 2019 amendment substituted "Director of the Arkansas Eco-

nomics Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (a)(1)(A).

15-3-708. Program funding.

Matching grants awarded under this subchapter are limited by the amount of funds allocated to the Arkansas Small Business Innovation Research Matching Grant Program created under this subchapter.

History Acts 2017, No. 166, § 2.

15-3-709. Rules.

The Division of Science and Technology of the Arkansas Economic Development Commission shall promulgate rules to carry out the purposes of this subchapter.

History Acts 2017, No. 166, § 2.

CHAPTER 4

DEVELOPMENT OF BUSINESS AND INDUSTRY GENERALLY

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS ECONOMIC DEVELOPMENT COUNCIL.
3. MINORITY AND WOMEN-OWNED BUSINESS ECONOMIC DEVELOPMENT ACT.
4. JOBS CREATION BY STIMULATING SMALL BUSINESS GROWTH ACT OF 1985.
6. INDUSTRIAL REVENUE BOND GUARANTY LAW.
7. INDUSTRIAL DEVELOPMENT GUARANTY BOND ACT.
9. ARKANSAS DEVELOPMENT FINANCE CORPORATION ACT. [REPEALED.]
10. ARKANSAS CAPITAL DEVELOPMENT COMPANY ACT. [REPEALED.]
12. COUNTY AND REGIONAL INDUSTRIAL DEVELOPMENT COMPANY ACT.
14. INVENTORS' ASSISTANCE ACT.
16. ARKANSAS ECONOMIC DEVELOPMENT INCENTIVE ACT OF 1993.
17. ARKANSAS ENTERPRISE ZONE ACT OF 1993.
19. ARKANSAS ECONOMIC DEVELOPMENT ACT OF 1995.
20. DIGITAL PRODUCT AND MOTION PICTURE INDUSTRY DEVELOPMENT ACT OF 2009.
23. ARKANSAS PUBLIC ROADS IMPROVEMENTS CREDIT ACT.
24. STEEL MANUFACTURERS' TAX EXEMPTIONS AND CREDITS.
25. SMALL BUSINESS LOAN COLLABORATION PROGRAM.
27. CONSOLIDATED INCENTIVE ACT OF 2003.
29. ARKANSAS WORKFORCE INVESTMENT BOARD AND ADULT EDUCATION STUDY COMMITTEE. [REPEALED.]
30. ARKANSAS GENERAL OBLIGATION ECONOMIC DEVELOPMENT SUPERPROJECTS BOND AND PROJECT FUNDING ACT.

SUBCHAPTER.

- 31. NONPROFIT INCENTIVE ACT OF 2005. [REPEALED.]
- 32. ARKANSAS AMENDMENT 82 IMPLEMENTATION ACT.
- 33. EQUITY INVESTMENT INCENTIVE ACT OF 2007.
- 35. INCENTIVES FOR MAJOR MAINTENANCE AND IMPROVEMENT PROJECTS.
- 36. NEW MARKETS JOBS ACT OF 2013.
- 37. ARKANSAS WORKFORCE INNOVATION AND OPPORTUNITY ACT.
- 38. LOCAL FOOD, FARMS, AND JOBS ACT.
- 39. ARKANSAS MILITARY AFFAIRS COUNCIL ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 15-4-104. Bond guaranty programs for employee stock purchases.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-4-104. Bond guaranty programs for employee stock purchases.

(a) When an Arkansas-based employee stock ownership plan buys at least twenty percent (20%) of the stock of an Arkansas-based business entity formed under Arkansas law and the Director of the Arkansas Economic Development Commission determines that had it not been for the purchase by the employee stock ownership plan that Arkansas jobs would have been lost, the Arkansas-based business entity shall be qualified for any bond guaranty programs administered by the Arkansas Economic Development Commission or the Arkansas Development Finance Authority.

(b) The commission and the authority shall promulgate rules necessary for the implementation of this section.

History. Acts 1999, No. 1584, § 1; 2019, No. 315, § 1054; 2019, No. 910, § 356.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (b).

The 2019 amendment by No. 910 substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (a).

SUBCHAPTER 2 — ARKANSAS ECONOMIC DEVELOPMENT COUNCIL

SECTION.

- 15-4-203. Arkansas Economic Development Council — Organization and meetings.
- 15-4-204. Arkansas Economic Development Council — Functions, powers, and duties.
- 15-4-205. Arkansas Economic Development Commission — Status and purpose.

SECTION.

- 15-4-206. Arkansas Economic Development Commission — Director.
- 15-4-209. Arkansas Economic Development Commission — Functions, powers, and duties.
- 15-4-219. Annual report.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through

6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

Acts 2021, No. 522, § 3: July 1, 2021. Emergency clause provided: “It is hereby found and determined by the General Assembly of the State of Arkansas that the optimal time to implement this act is at the beginning of the state’s fiscal year; and that in order to carry out the requirements of this act for the next fiscal year it is necessary that this act become effective on July 1, 2021 for budgeting purposes. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2021.”

15-4-203. Arkansas Economic Development Council — Organization and meetings.

(a)(1) The Arkansas Economic Development Council shall select a chair and vice chair annually from its membership.

(2) The Director of the Arkansas Economic Development Commission shall be ex officio Secretary of the Arkansas Economic Development Council but shall have no vote on matters coming before it.

(b)(1) The council may adopt and modify rules for the conduct of its business and shall keep a public record of its transactions, findings, and determinations.

(2) The rules shall provide for regular meetings and for special meetings at the call of the Chair of the Arkansas Economic Development Council or of the Vice Chair of the Arkansas Economic Development Council, if he or she is for any reason the acting chair, either at his or her own instance or upon the written request of at least seven (7) members.

(3) The rules adopted under this section may allow for meetings to be held by conference call or other means of communication to conduct the council's business.

(4) A quorum shall consist of at least seven (7) members present at a regular or special meeting, and an affirmative vote of seven (7) members shall be necessary for the disposition of any business.

History. Acts 1955, No. 404, § 9; 1968 (2nd Ex. Sess.), No. 11, § 1; 1979, No. 65, § 4; 1981, No. 41, § 5; A.S.A. 1947, § 9-512; Acts 1997, No. 540, § 64; 2013, No. 1185, § 1; 2019, No. 910, § 357.

Amendments. The 2019 amendment substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (a)(2).

15-4-204. Arkansas Economic Development Council — Functions, powers, and duties.

(a) The Arkansas Economic Development Council may serve in an advisory capacity to the Director of the Arkansas Economic Development Commission, the Governor, and the General Assembly.

(b) A primary function of the council is to approve the issuance of guaranties of amortization payments on Act No. 9 bonds under the Industrial Revenue Bond Guaranty Law, § 15-4-601 et seq.

(c) The addition or elimination of international offices of the Arkansas Economic Development Commission by the commission shall first be approved by the council.

(d) By a majority vote, the council may establish or dissolve committees and subcommittees as needed.

History. Acts 1955, No. 404, §§ 7, 8; 1971, No. 443, § 1; 1979, No. 65, § 4; A.S.A. 1947, §§ 9-510, 9-511; Acts 2013, No. 1185, § 1; 2019, No. 202, § 1; 2019, No. 910, § 358.

Amendments. The 2019 amendment by No. 202 inserted "or dissolve" in (d).

The 2019 amendment by No. 910 substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (a).

15-4-205. Arkansas Economic Development Commission — Status and purpose.

(a) The Arkansas Economic Development Commission is the state agency responsible for implementing programs and policies aimed at improving the state's economic condition.

(b) The purposes of the commission are to:

(1) Serve as the primary governmental source for carrying out the Governor's plan for economic development in the state;

(2) Promote the state with a central focus on state, local, and regional economic development efforts;

(3) Coordinate the activities of private and public efforts to advance economic development in the state;

(4) Compile and disseminate all available information pertinent to the economic opportunities afforded by the state;

- (5) Receive and disburse funds for the purpose of community and economic development; and
- (6) Perform other duties as designated by the Governor.

History. Acts 1939, No. 68, § 3; A.S.A. 1947, § 9-501; Acts 1997, No. 540, § 65; 2013, No. 1185, § 1; 2019, No. 202, § 2.

Amendments. The 2019 amendment inserted “state, local, and” in (b)(2).

15-4-206. Arkansas Economic Development Commission — Director.

(a)(1) The Director of the Arkansas Economic Development Commission shall be appointed by the Governor subject to confirmation by the Senate.

(2) The director shall serve at the pleasure of the Governor.

(3) The director shall report to the Secretary of the Department of Commerce.

(b) The director shall:

(1) Have the experience necessary to lead the Arkansas Economic Development Commission as determined by the Secretary of the Department of Commerce;

(2) Be custodian of all property held in the name of the commission; and

(3) Be the ex officio disbursing agent of all funds available for the commission’s use.

History. Acts 1955, No. 404, § 10; 1979, No. 65, § 4; 1985, No. 712, §§ 1, 2; A.S.A. 1947, § 9-513; Acts 1997, No. 540, § 20; 2013, No. 1185, § 1; 2019, No. 910, § 359.

Amendments. The 2019 amendment substituted “Director” for “Executive Director” in the section heading; substituted “Director of the Arkansas Economic De-

velopment Commission” for “Executive Director of the Arkansas Economic Development Commission” in (a)(1); deleted “executive” preceding “director” in (a)(2); added (a)(3); deleted “executive” preceding “director” in the introductory language of (b); and substituted “Secretary of the Department of Commerce” for “Governor” in (b)(1).

15-4-209. Arkansas Economic Development Commission — Functions, powers, and duties.

(a) In accordance with state and federal law, the Arkansas Economic Development Commission shall:

(1) Administer grants, loans, cooperative agreements, tax credits, guaranties, and other incentives, memoranda of understanding, and conveyances to assist with economic development in the state;

(2) In concert with others, periodically develop a strategic plan to guide the commission in the pursuit of the commission’s stated mission;

(3) Cooperate with public and private organizations to advance the commission’s goals and objectives as identified in the commission’s most recent strategic plan;

(4) Administer the Small Cities Community Development Block Grant (CDBG) Program with funds received from the United States Government;

(5) Assist rural communities and agencies with funding, educational opportunities, and technical assistance to enhance the quality of life in rural areas of Arkansas;

(6) To the extent that funds are available, assist with the cost of infrastructure in the pursuit of new or expanded job creation;

(7) Encourage the exportation of Arkansas-produced goods and services;

(8) Assist women-owned businesses and minority-owned businesses through certification, loan guaranties, technical assistance, or grants to encourage their growth and development;

(9) Provide assistance to cities, counties, and regions as they develop and implement strategic plans for community and economic development;

(10) Establish and administer a business and industry training program to train both new and existing employees;

(11) Cooperate with other international, multistate, regional, federal, state, and local efforts aimed at providing resources or assistance to economic development;

(12) Work with communities and regions to develop ongoing processes focused on the creation and recruitment of new businesses and the retention of existing businesses;

(13) Utilize all available means of securing financing for business development statewide;

(14) Serve as the state's focal point for the establishment of foreign trade zones under the programs offered by the United States Department of Commerce, including without limitation serving as the grantee of Foreign Trade Zone 14;

(15) Promote innovation and the commercialization of ideas into viable Arkansas businesses;

(16) Highlight the state's ability to host film projects and make available resources to assist in building the film industry in the state;

(17) Comply with procedures for the disposal of properties acquired by the commission;

(18) Administer the provisions of Arkansas Constitution, Amendment 27, providing a limited exemption from certain tax liabilities;

(19) Assist in the creation and growth of small businesses;

(20) Carry out any other duties or responsibilities as designated by the Governor; and

(21) Promote and support military installations for state and local economic development.

(b) The commission may:

(1) Contract and be contracted with;

(2) Purchase, lease, rent, sell, and receive bequests or donations of real, corporeal, or personal property from any lawful source;

(3) Establish and maintain international offices, as approved by the Arkansas Economic Development Council, to assist with the export of

Arkansas-produced goods and services as well as foreign direct investment, either through the use of contractual employees or other means;

(4) Conduct studies as necessary to assess any economic development need or asset; and

(5) Promulgate rules necessary to implement the programs and services offered by the commission.

History. Acts 1955, No. 404, § 8; 1971, No. 443, § 1; 1979, No. 65, § 4; A.S.A. 1947, § 9-511; Acts 2013, No. 1185, § 1; 2019, No. 202, § 3; 2021, No. 522, § 1.

Amendments. The 2019 amendment added “In accordance with state and federal law” in the introductory language of (a); in (a)(1), inserted “guaranties” and substituted “memoranda of understanding” for “memoranda of understandings”; substituted “United States Government” for “federal government” in (a)(4); rewrote

(a)(5); in (a)(8), substituted “women-owned businesses and minority-owned” for “small and minority”, and substituted “loan guaranties” for “loans”; substituted “strategic plans for community and economic” for “their own plans for economic” in (a)(9); added “including without limitation serving as the grantee of Foreign Trade Zone 14” in (a)(14); inserted (a)(19); redesignated former (a)(19) as (a)(20); and made stylistic changes.

The 2021 amendment added (a)(21)

15-4-219. Annual report.

The Arkansas Economic Development Commission shall present a report annually on the commission’s work during the previous calendar year in these areas of concern:

(1) An accounting of:

(A) Each project that was offered incentives in the previous calendar year, including without limitation:

(i) The number of jobs proposed by each project;

(ii) For each job creation project that receives funds from the Economic Development Incentive Quick Action Closing Fund under § 19-5-1231, an indication of whether each project contains a repayment requirement;

(iii)(a) Each project that received funds from the Economic Development Incentive Quick Action Closing Fund under § 19-5-1231.

(b) The information reported in subdivision (1)(A)(iii)(a) of this section and any other related information shall be made available to the Office of Economic and Tax Policy upon request;

(iv) The location of each project; and

(v) The specific incentives offered by the commission;

(B) Each project that was offered incentives but that did not accept incentives, including without limitation:

(i) An assessment of the reasons why each offered project failed to open; and

(ii) Any proposals the General Assembly should consider that would have assisted the commission in its negotiations regarding each project;

(C) Each factory and plant that closed in the previous calendar year, including without limitation:

(i) The number of jobs lost as the result of the closure of each factory or plant;

- (ii) The location of each factory or plant that closed; and
- (iii) An assessment of the reasons for each factory or plant closing; and
- (D) The commission's strategies and recommendations for the coming year, including:
 - (i) An assessment of the relative risk of loss of factories, plants, and jobs in the state; and
 - (ii) Plans for:
 - (a) Preventing future closings of factories and plants;
 - (b) Preventing future losses of jobs;
 - (c) Increasing the number of economic development proposals within the state;
 - (d) Drawing an increasing number of economic development proposals into the state; and
 - (e) Creating new incentives for economic development proposals; and
- (2) The Director of the Arkansas Economic Development Commission's assessment of the commission's performance, including without limitation a comparison to:
 - (A) The commission's performance over the past two (2) years;
 - (B) The commission's own projections; and
 - (C) Economic development in neighboring states.

History. Acts 2001, No. 1282, § 2; 2005, No. 1962, § 56; 2013, No. 1185, § 1; 2019, No. 202, § 4; 2019, No. 910, § 360.

Amendments. The 2019 amendment by No. 202 deleted "and the average hourly wage or annual salary for each project" following "by each project" in (1)(A)(i); and substituted "specific incentives offered by the commission" for "ele-

ments of the commission's incentive packages that were used" in (1)(A)(v).

The 2019 amendment by No. 910 substituted "Director of the Arkansas Economic Development Commission's" for "Executive Director of the Arkansas Economic Development Commission's" in the introductory language of (2).

SUBCHAPTER 3 — MINORITY AND WOMEN-OWNED BUSINESS ECONOMIC DEVELOPMENT ACT

SECTION.

- 15-4-301. Title.
- 15-4-302. Purpose — Goals — Notice.
- 15-4-303. Definitions.
- 15-4-304. Creation.
- 15-4-305. Administrator.
- 15-4-306. Duties.
- 15-4-307. Minority and Women-owned Business Advisory Council.
- 15-4-308. Administration.
- 15-4-309. Exempt contracts.
- 15-4-310. Minority and women-owned business officer.

SECTION.

- 15-4-311. Annual minority and women-owned purchasing plan.
- 15-4-312. State agencies to submit reports.
- 15-4-313. Accelerated payments.
- 15-4-314. Minority business enterprises and women-owned business enterprises certification process.
- 15-4-315. Small procurements.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-4-301. Title.

This subchapter shall be known and may be cited as the "Minority and Women-Owned Business Economic Development Act".

History. Acts 1977, No. 544, § 2; A.S.A. 1947, § 5-916.3; Acts 1997, No. 540, § 69; 2009, No. 1222, § 1; 2017, No. 1080, § 1.

Amendments. The 2017 amendment inserted "and Women-Owned".

15-4-302. Purpose — Goals — Notice.

(a) The General Assembly finds that it is the policy of the State of Arkansas to support equal opportunity as well as economic development in every sector.

(b) The General Assembly recognizes that it is the purpose of this subchapter to support to the fullest all possible participation of firms owned and controlled by minority persons and women in state-funded and state-directed public construction programs and in the purchase of goods and services for the state.

(c) All state agencies shall attempt to ensure that the following percentages of the total amount expended in state-funded and state-directed public construction programs and in the purchase of goods and services for the state each fiscal year are paid to minority business enterprises and women-owned business enterprises:

(1)(A) For minority business enterprises, ten percent (10%).

(B) The ten-percent goal under subdivision (c)(1)(A) of this section shall be allocated as follows:

(i) Two percent (2%) for service-disabled veteran-owned minority business enterprises; and

(ii) Eight percent (8%) for all other minority business enterprises; and

(2) For women-owned business enterprises, five percent (5%).

(d) To facilitate notification of potential respondents to procurement solicitations, a state agency shall publish all state contract solicitations on the website of the Office of State Procurement.

History. Acts 1977, No. 544, § 1; 1979, No. 1060, § 9; 1983, No. 644, § 1; A.S.A.

1947, §§ 5-916.2, 5-916.2a, 5-916.2a note; Acts 1997, No. 540, §§ 24, 70; 2009, No. 1222, § 2; 2017, No. 1080, § 1.

Amendments. The 2017 amendment inserted "Goals — Notice" in the section heading; inserted "and women" in (b); in

the present introductory language of (c), substituted "the following percentages" for "ten percent (10%)", substituted "are" for "is", and inserted "and women-owned business enterprises"; and added (c)(1), (c)(2), and (d).

15-4-303. Definitions.

As used in this subchapter:

(1)(A) "Exempt" means goods and services classified as exempt for the purpose of administering this subchapter.

(B) The classification shall be determined by the Office of State Procurement and the Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission and submitted to the Arkansas Economic Development Council for its review and consideration for the purposes of this subchapter;

(2) "Minority" means a lawful permanent resident of this state who is:

(A) African American;

(B) Hispanic American;

(C) American Indian;

(D) Asian American;

(E) Pacific Islander American; or

(F) A service-disabled veteran as designated by the United States Department of Veterans Affairs;

(3) "Minority and women-owned business officer" means the individual within each state agency with the responsibility for carrying out the intended purposes of this subchapter;

(4) "Minority business enterprise" means a business that is at least fifty-one percent (51%) owned by one (1) or more minority persons as defined in this section;

(5)(A) "Nonexempt" means goods and services classified as nonexempt for the purpose of administering this subchapter.

(B) The classification shall be determined by the Office of State Procurement and the division and submitted to the council for its review and consideration for the purposes of this subchapter;

(6) "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any goods or services;

(7) "State agency" means a department, an office, a board, a commission, or an institution of this state, including a state-supported institution of higher education;

(8) "State contract" means a state agreement, regardless of what it may be called, for the purchase of commodities and services and for the disposal of surplus commodities and services not otherwise exempt; and

(9) "Women-owned business enterprise" means a business that is at least fifty-one percent (51%) owned by one (1) or more women who are lawful permanent residents of this state.

History. Acts 1977, No. 544, § 5; A.S.A. 1947, § 5-916.6; Acts 2003, No. 1814, § 2; 2009, No. 1222, § 3; 2011, No. 893, § 1; 2017, No. 1080, § 1.

Amendments. The 2017 amendment

inserted “and Women-owned” in (1)(B); inserted “and women-owned” in (4); added the definition for “Women-owned business enterprise”; and made stylistic changes.

15-4-304. Creation.

The Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission:

(1) Is established and confirmed within the Arkansas Economic Development Commission;

(2) Shall be operated as a division within the commission; and

(3) Shall perform the functions and duties as provided in this subchapter.

History. Acts 1977, No. 544, § 3; A.S.A. 1947, § 5-916.4; Acts 2009, No. 1222, § 4; 2017, No. 1080, § 1.

Amendments. The 2017 amendment inserted “and Women-owned” in the intro-

ductory language; and deleted “under the jurisdiction of the Arkansas Economic Development Council” following “Commission” at the end of (1).

15-4-305. Administrator.

(a) The head of the Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission is the Administrator of the Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission.

(b) The administrator shall be appointed by the Governor and shall serve at the pleasure of the Governor.

(c) The administrator shall report to the Secretary of the Department of Commerce.

History. Acts 1977, No. 544, § 4; A.S.A. 1947, § 5-916.5; Acts 2009, No. 1222, § 5; 2017, No. 1080, § 1; 2019, No. 910, § 361.

Amendments. The 2017 amendment inserted “and Women-owned” twice.

The 2019 amendment rewrote the former text of the section and designated it as (a) and (b); and added (c).

15-4-306. Duties.

The Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission shall:

(1) Provide technical, managerial, and counseling services and assistance to minority business enterprises and women-owned business enterprises;

(2) With the participation of other state departments and state agencies as appropriate:

(A) Develop comprehensive plans and specific program goals for a minority business enterprise and women-owned business enterprise program;

(B) Establish regular performance monitoring and reporting systems to assure that goals are being achieved; and

(C) Evaluate the impact of federal and state support in achieving the objectives established by the Arkansas Economic Development Commission;

(3) Implement state policy in support of minority business enterprise and development and women-owned business enterprise and development and coordinate the plans, programs, and operations of state government that affect or may contribute to the establishment, preservation, and strengthening of minority business enterprises and women-owned business enterprises;

(4) Coordinate, make application for, and administer federal funding grants from the United States Minority Business Development Agency, the United States Small Business Administration, the United States Department of Veterans Affairs, and other federal agencies when applicable;

(5) Promote the mobilization of activities and resources of state agencies and local governments, business and trade associations, universities, foundations, professional organizations, and volunteer and other groups toward the growth of minority business enterprises and women-owned business enterprises, and facilitate the coordination of the efforts of these groups with those of other state departments and state agencies;

(6) Establish a center for the development, collection, and dissemination of information that will be helpful to persons and organizations throughout the state in undertaking or promoting the establishment and successful operation of minority business enterprises and women-owned business enterprises;

(7) Conduct coordinated reviews of all proposed state training and technical assistance activities in direct support of the minority business enterprise and women-owned business enterprise program to ensure consistency with program goals and to preclude duplication of effort of other state agencies with overlapping jurisdictions;

(8) Recommend appropriate legislative or executive actions to enhance minority business enterprise and women-owned business enterprise opportunities in this state;

(9) Assist minority business enterprises and women-owned business enterprises in obtaining governmental or commercial financing for business expansion, establishment of new businesses, or industrial development projects;

(10) Provide services to promote the organization of local development corporations for rural development and assist minority business enterprise and women-owned business enterprise persons in agrarian endeavors;

(11) Assist minority business enterprises and women-owned business enterprises to promote reciprocal foreign trade and investment;

(12) Assist minority and women-owned business persons in business contract procurement from governmental and private commercial sources; and

(13) Provide a program effort to ensure participation of veterans and women in Arkansas minority business enterprise activities and women-owned business enterprise activities.

History. Acts 2009, No. 1222, § 6; 2017, No. 1080, § 1.

Amendments. The 2017 amendment inserted “and Women-owned” in the introductory language; inserted “and women-owned business enterprises” and similar language throughout; inserted “and women-owned business and development” in (3); substituted “United States Minority Business Development Agency, the United States Small Business Administration, the United States Department of

Veterans Affairs, and other federal agencies when applicable” for “Minority Business Development Agency of the United States Department of Commerce and other federal agencies where applicable” in (4); inserted “enterprise and women-owned business enterprise” in (8) and (10); inserted “and women-owned” in (12); and, in (13), inserted “and women” and “and women-owned business enterprise activities”.

15-4-307. Minority and Women-owned Business Advisory Council.

(a) The Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission shall be represented by a statewide Minority and Women-owned Business Advisory Council and shall report to that council.

(b)(1) The council shall consist of nine (9) members.

(2) The council shall:

(A) Monitor progress, make recommendations, and develop strategic plans for performance improvement; and

(B) Report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

(c)(1) The Governor shall appoint three (3) members of the council with the advice and consent of the Senate.

(2) The President Pro Tempore of the Senate shall appoint two (2) members of the council.

(3) The Speaker of the House of Representatives shall appoint two (2) members of the council.

(4) The Director of the Arkansas Economic Development Commission shall appoint two (2) members of the council.

(5) Appointments shall reflect and be representative of the minority and women-owned business communities, resource organizations, entrepreneurs, corporations, and other minority and women-owned business advocates.

(d) Except as otherwise provided by law, members of the council shall serve without compensation.

(e) The term of office of the council shall:

(1) Be at the pleasure of the appointing officer; and

(2) Not exceed five (5) years.

(f) There is established a formal relationship between the council and the Administrator of the Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission.

(g)(1) The administrator shall be the liaison to the council and shall be responsible for submitting to the council any reports and documents under the provisions of this section.

(2) Their duties in relation to this section shall be considered official duty in the conduct of state business.

(h) The council's duties and responsibilities shall be to:

(1) Review reports and interpret each state agency's achievement of its goals under § 15-4-302(c);

(2) Advise the Governor when a state agency has not reached its goals under § 15-4-302(c);

(3) Make annual reports to the Secretary of the Department of Commerce, including without limitation:

(A) A summary of the state's performance in relation to the goals stated in § 15-4-302(c); and

(B) Any recommendations for modifications to the division's or other state agency's plans for improving statewide performance in relation to the goals stated in § 15-4-302(c);

(4) Recommend to the state agency, the division, and the Office of State Procurement corrective actions to strengthen minority and women-owned business opportunities in the state; and

(5) Conduct public hearings when necessary to obtain public input and support for the purpose of carrying out the provisions of this subchapter.

(i) Each state agency, through its minority and women-owned business officer, shall submit to the division and the office the state agency's plan to reach its goals for the coming fiscal year, which shall:

(1) Be submitted to the division by June 30 of each year;

(2) Contain the name of the state agency submitting the plan;

(3) Contain a policy statement signed by the state agency head expressing a commitment to strengthen minority business enterprises and women-owned business enterprises in all aspects of contracting to the maximum extent feasible;

(4) Identify the name of the minority and women-owned business officer in the state agency who is responsible for developing and administering the compliance plan;

(5) Establish a timetable for the state agency to reach its goals under the plan and the manner in which the state agency intends to reach its goals; and

(6) Contain any other procedures the division deems necessary to comply with the goals and the compliance plan.

History. Acts 2009, No. 1222, § 6; 2017, No. 1080, § 1; 2019, No. 910, §§ 362, 363.

Amendments. The 2017 amendment inserted "and Women-owned" in the section heading and throughout; substituted "nine (9)" for "seven (7)" in (b)(1); inserted (c)(4) and redesignated former (c)(4) as (c)(5); substituted "communities" for "com-

munity" in present (c)(5); redesignated (e) as present (e) and (e)(1); added (e)(2); deleted "and the small disadvantaged business officer" following "administrator" in (g)(1); inserted "under § 15-4-302(c)" in (h)(1) and (h)(2); inserted "including without limitation" in the introductory language of (h)(3); added (h)(3)(A) and (h)(3)(B); deleted "the council" following

“division” in the introductory language of (i); in (i)(3), substituted “strengthen” for “use” following “commitment to” and inserted “and women-owned business enterprises”; and made stylistic changes.

The 2019 amendment substituted “Director of the Arkansas Economic Develop-

ment Commission” for “Executive Director of the Arkansas Economic Development Commission” in (c)(4); and substituted “Secretary of the Department of Commerce” for “Governor” in the introductory language of (h)(3).

15-4-308. Administration.

(a) The Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission and the Office of State Procurement shall serve as the principal coordinators of the initiative to ensure the successful implementation of this subchapter.

(b) The division and the office shall provide assistance to minority business enterprises and women-owned business enterprises seeking state contract opportunities with various state agencies.

(c) The division and the office shall maintain a directory of all minority and women-owned business officers for each state agency.

(d) The division and the office shall provide management and technical assistance to any state agency that experiences difficulty in complying with the provisions of this subchapter.

(e) The division and the office shall maintain a current directory of minority business enterprises and women-owned business enterprises and shall make the directory available to each state agency and minority and women-owned business officer.

(f) The division shall serve as a central clearinghouse for information on state contracts, including a record of all pending state contracts upon which minority business enterprises and women-owned business enterprises may participate.

History. Acts 2009, No. 1222, § 6; 2017, No. 1080, § 1.

inserted “and Women-owned” and “and women-owned business enterprises” and similar language throughout the section.

Amendments. The 2017 amendment

15-4-309. Exempt contracts.

Upon the approval of the Minority and Women-owned Business Advisory Council, the Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission and the Office of State Procurement shall determine the classifications of state contracts to be exempted from the goals established by this subchapter whenever there exists an insufficient number of minority business enterprises or women-owned business enterprises to ensure adequate competition.

History. Acts 2009, No. 1222, § 6; 2017, No. 1080, § 1.

inserted “and Women-owned” two times and “or women-owned business enterprises” once.

Amendments. The 2017 amendment

15-4-310. Minority and women-owned business officer.

(a) Each state agency shall designate an individual as its minority and women-owned business officer.

(b) The minority and women-owned business officer shall be the person within the state agency with whom the Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission and the Minority and Women-owned Business Advisory Council shall work in their efforts to accomplish the goals of this subchapter.

(c) Upon the appointment of the minority and women-owned business officer in each state agency, the state agency shall notify the division and the Office of State Procurement.

History. Acts 2009, No. 1222, § 6; inserted “and women-owned” and similar 2017, No. 1080, § 1. language in the section heading and

Amendments. The 2017 amendment throughout the section.

15-4-311. Annual minority and women-owned purchasing plan.

(a) Prior to June 30 each year, each state agency shall submit to the Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission and the Office of State Procurement a minority and women-owned purchasing plan that shall outline the state agency’s plan to reach its goals for the coming fiscal year.

(b) The minority and women-owned purchasing plan shall include without limitation:

(1) The name of the state agency;

(2) A policy statement signed by the state agency head expressing a commitment to use minority business enterprises and women-owned business enterprises in all aspects of contracting to the maximum extent feasible;

(3) The name of the minority and women-owned business officer in the state agency who is responsible for developing and administering the purchasing plan;

(4) The timetable for the state agency to reach its goals under the purchasing plan and the manner in which the state agency intends to reach its goals, including without limitation the manner in which the state agency intends to include minority business enterprises and women-owned business enterprises in reaching its goals; and

(5) Any other procedures the state agency deems necessary to comply with the goals and the purchasing plan.

(c) The minority and women-owned business officer shall determine the category to which a purchase shall be assigned for purposes of the minority and women-owned purchasing plan required under this section.

History. Acts 1991, No. 698, § 1; 2007, No. 692, § 1; 2009, No. 1222, § 7; 2017, No. 1080, § 1.

Amendments. The 2017 amendment inserted “and women-owned” and similar language in the section heading and throughout the section; inserted “enter-

prises and women-owned business enterprises” in (b)(2); substituted “purchasing” for “compliance” in (b)(3); in (b)(4), inserted “purchasing” and “including without limitation . . . its goals”; substituted “purchasing” for “compliance” in (b)(5); and added (c).

15-4-312. State agencies to submit reports.

Within fifteen (15) days of the close of each six-month period, each state agency shall submit a report to the Minority and Women-owned Business Advisory Council summing up total procurement for all state contracts, except exempt state contracts of the state agency, and the dollar value and the percentage of the state contracts of the state agency awarded to minority business enterprises and women-owned business enterprises.

History. Acts 1991, No. 698, § 2; 2009, No. 1222, § 8; 2017, No. 1080, § 1.

Amendments. The 2017 amendment substituted “Within” for “The Minority Business Advisory Council shall require each state agency to produce within” and

“six-month” for “three-month”, inserted “each state agency shall submit”, inserted “to the Minority and Women-owned Business Advisory Council”, inserted “state”, and added “and women-owned business enterprises”.

15-4-313. Accelerated payments.

To ensure that minority business enterprises and women-owned business enterprises are not financially hindered due to delays in payment by state agencies entering into state contracts with minority business enterprises and women-owned business enterprises under this subchapter, state agencies shall accelerate payment to minority vendors and women-owned vendors to preclude accounts receivable problems of minority business enterprises and women-owned business enterprises caused by the State of Arkansas.

History. Acts 1991, No. 698, § 3; 1995, No. 1296, § 48; 1997, No. 540, § 25; 2003, No. 487, § 12; 2007, No. 692, § 2; 2009, No. 481, § 1; 2009, No. 1222, § 9; 2017, No. 1080, § 1.

Amendments. The 2017 amendment inserted “and women-owned business enterprises” three times and “and women-owned vendors” once.

15-4-314. Minority business enterprises and women-owned business enterprises certification process.

(a) The Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission shall promulgate rules to create a certification process for minority business enterprises and women-owned business enterprises.

(b) The certification process shall include without limitation:

(1) Criteria for certification that shall include without limitation:

(A) A determination that the business is structured as a minority business enterprise or a women-owned business enterprise;

(B) Verification of minority or woman ownership and control of the business; and

(C) Annual updates indicating continuing minority or woman ownership and control;

(2) A formal application process;

(3) An education program to assist minority business enterprises and women-owned business enterprises in achieving certification; and

(4) An outreach to ensure the broadest possible participation of minority business enterprises and women-owned business enterprises and persons proposing new minority business enterprises or women-owned business enterprises.

(c) The Office of State Procurement shall cooperate with the division to the fullest extent possible in sharing information concerning certification and registration of minority business enterprises and women-owned business enterprises carrying out the purposes of this section.

History. Acts 1991, No. 698, § 6; 2009, No. 1222, § 10; 2017, No. 1080, § 1.

Amendments. The 2017 amendment inserted “and women-owned business en-

terprises” and similar language in the section heading and throughout the section; and inserted “or woman” in (b)(1)(B) and (b)(1)(C).

15-4-315. Small procurements.

To assist the state in ensuring that the percentages of the total amount expended in state-funded and state-directed public construction programs and procurement of commodities and services for the state each fiscal year under § 15-4-302 are paid to minority business enterprises and women-owned business enterprises under this subchapter, a procurement that does not exceed two (2) times the amount stated in § 19-11-204(13) may be procured without seeking competitive bids or competitive sealed bids if the procurement is with a certified minority business enterprise or certified women-owned business enterprise.

History. Acts 2017, No. 1080, § 2.

Publisher’s Notes. Former § 15-4-315, concerning administration, was re-

pealed by Acts 2009, No. 1222, § 11. The section was derived from Acts 1991, No. 698, § 7; 1995, No. 1296, § 48.

SUBCHAPTER 4 — JOBS CREATION BY STIMULATING SMALL BUSINESS GROWTH ACT OF 1985

SECTION.

15-4-404. Promulgation of rules generally.

15-4-405. Companies qualified for loan application and sale — Apportioning available funds.

15-4-404. Promulgation of rules generally.

The Arkansas Economic Development Council shall promulgate rules and procedures to be followed by the Division of Minority and Women-

owned Business Enterprise of the Arkansas Economic Development Commission:

- (1) In administering the provisions of this subchapter; and
- (2) In the making of loans to small business investment companies or in the purchase from the companies of loans made to small business concerns in compliance with the provisions of this subchapter.

History. Acts 1985, No. 869, § 10; A.S.A. 1947, § 9-578; Acts 1997, No. 540, § 72; 2019, No. 315, § 1055.

deleted “and regulations” following “rules” in the section heading and deleted “regulations” following “rules” in the introductory language.

Amendments. The 2019 amendment

15-4-405. Companies qualified for loan application and sale — Apportioning available funds.

(a) Any small business investment company which qualifies and is licensed by the United States Small Business Administration as a small business investment company authorized to do business in this state and to make loans and provide investment funds for capital improvements to persons whose participation in the free enterprise system is hampered because of social or economic disadvantage shall be entitled to apply with the Division of Minority Business Enterprise of the Arkansas Economic Development Commission for loans under the provisions of this subchapter and may sell to the division loans made to small business concerns eligible to receive the loans under the provisions of this subchapter.

(b) If applications for loans or applications to sell investment loans filed with the division exceed the funds available for such purposes, the Arkansas Economic Development Council shall promulgate appropriate rules to apportion to each such small business investment company its pro rata share of available loan funds in accordance with guidelines and standards promulgated by the council.

History. Acts 1985, No. 869, § 10; A.S.A. 1947, § 9-578; Acts 2019, No. 315, § 1056.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b).

SUBCHAPTER 6 — INDUSTRIAL REVENUE BOND GUARANTY LAW

SECTION.

15-4-604. When bonds may be guaranteed — Standards and rules for evaluations.

SECTION.

15-4-609. Rules.

15-4-604. When bonds may be guaranteed — Standards and rules for evaluations.

(a) Amortization payments on Act No. 9 bonds and ADFA bonds may be guaranteed in instances when:

- (1) Substantial employment is involved;

(2) The total principal amount of all outstanding Act No. 9 bonds and ADFA bonds under guaranty is not in excess of one hundred million dollars (\$100,000,000);

(3) No one (1) issue or series of Act No. 9 bonds or ADFA bonds guaranteed under this section shall exceed five million dollars (\$5,000,000) in principal amount;

(4) The user of the industrial project involved is not permitted to purchase or own at any time any of such bonds; and

(5) The user is found to be financially responsible and the full payment of the interest and principal amount of the bonds may reasonably be expected.

(b) The Arkansas Economic Development Council shall promulgate standards and rules for the evaluation of the financial condition and business history of users.

History. Acts 1967, No. 173, § 3; 1967, No. 509, § 1; 1969, No. 397, § 3(a); 1971, No. 251, § 1; 1977 (1st Ex. Sess.), No. 10, § 1; 1979, No. 115, §§ 1, 2; 1981, No. 259, § 1; 1985, No. 864, § 1; A.S.A. 1947, § 9-561; Acts 1987 (1st Ex. Sess.), No. 39, § 2; 1997, No. 778, § 3; 2001, No. 1032, § 2; 2019, No. 315, § 1057.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b).

15-4-609. Rules.

(a) The Arkansas Economic Development Council is authorized and directed to conduct such investigation as it may determine necessary for the promulgation of rules to govern the operation of the guaranty program authorized by this subchapter.

(b) These rules shall include the restrictions and conditions imposed by this subchapter, including particularly those set forth in §§ 15-4-604 and 15-4-608. The rules may include such other additional provisions, restrictions, and conditions as the council, after the investigation referred to in subsection (a) of this section, shall determine to be proper to achieve the most effective utilization of the guaranty program authorized by this subchapter. This may include, without limitation, a detailing of the remedies that must be exhausted by the bondholders or a trustee acting in their behalf prior to calling upon the council to perform under its guaranty agreement and the subrogation or other rights of the council with reference to the industrial project and its operation in the event the council makes payment pursuant to the applicable guaranty agreement.

(c) In this regard, the council is expressly authorized to enter into such agreements and otherwise take such action as may be necessary to exercise the authority conferred by this subchapter or to evidence the exercise thereof.

(d) The rules promulgated by the council to govern the operation of the guaranty program shall contain specific provisions with respect to the rights of the council to enter, take over, and manage the industrial development properties upon default. These rules shall set forth the respective rights of the council and the bondholders in regard thereto.

(e) Such rules shall be in conformity with §§ 14-164-201 — 14-164-206, 14-164-208 — 14-164-224, 15-5-101 — 15-5-105, 15-5-201 — 15-5-211, and 15-5-301 — 15-5-316.

History. Acts 1967, No. 173, § 8; A.S.A. 1947, § 9-566; Acts 1987 (1st Ex. Sess.), No. 39, § 5; Acts 2019, No. 315, § 1058.

Amendments. The 2019 amendment substituted “Rules” for “Regulations” in the section heading and substituted “rules” for “regulations” throughout the section.

SUBCHAPTER 7 — INDUSTRIAL DEVELOPMENT GUARANTY BOND ACT

SECTION.

15-4-706. Execution and delivery of bonds.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-4-706. Execution and delivery of bonds.

(a) The bonds shall be executed by the facsimile signature of the Chair of the Arkansas Economic Development Council and by the manual signature of the Director of the Arkansas Economic Development Commission.

(b) Interest coupons attached to the bonds shall be executed with the facsimile signature of the chair.

(c) Delivery of the bonds and coupons so executed shall be valid notwithstanding any change in persons holding such offices occurring after the bonds have been executed.

History. Acts 1969, No. 397, § 1; A.S.A. 1947, § 9-567; Acts 1997, No. 540, § 77; 2019, No. 910, § 364.

Amendments. The 2019 amendment substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (a).

SUBCHAPTER 9 — ARKANSAS DEVELOPMENT FINANCE CORPORATION ACT**[Repealed.]**

SECTION.

15-4-901 — 15-4-927. [Repealed.]

15-4-901 — 15-4-927. [Repealed.]

Publisher's Notes. This subchapter, concerning the Arkansas Development Finance Corporation Act, was repealed by Acts 2017, No. 426, § 3. The subchapter was derived from the following sources:

15-4-901. Acts 1957, No. 567, § 1; A.S.A. 1947, § 67-1601.

15-4-902. Acts 1957, No. 567, § 13; A.S.A. 1947, § 67-1613.

15-4-903. Acts 1957, No. 567, § 2; 1985, No. 667, § 1; A.S.A. 1947, § 67-1602.

15-4-904. Acts 1957, No. 567, § 26; A.S.A. 1947, § 67-1626.

15-4-905. Acts 1957, No. 567, § 25; 1961, No. 21, § 2; A.S.A. 1947, § 67-1625; Acts 2001, No. 64, § 1.

15-4-906. Acts 1957, No. 567, § 10; 1985, No. 667, § 2; A.S.A. 1947, § 67-1610.

15-4-907. Acts 1957, No. 567, § 3; A.S.A. 1947, § 67-1603.

15-4-908. Acts 1957, No. 567, § 4; A.S.A. 1947, § 67-1604.

15-4-909. Acts 1957, No. 567, § 5; A.S.A. 1947, § 67-1605.

15-4-910. Acts 1957, No. 567, § 6; A.S.A. 1947, § 67-1606.

15-4-911. Acts 1957, No. 567, § 7; A.S.A. 1947, § 67-1607.

15-4-912. Acts 1957, No. 567, § 8; A.S.A. 1947, § 67-1608.

15-4-913. Acts 1957, No. 567, § 9; A.S.A. 1947, § 67-1609.

15-4-914. Acts 1957, No. 567, § 11; 1985, No. 667, § 3; A.S.A. 1947, § 67-1611.

15-4-915. Acts 1957, No. 567, § 12; 1985, No. 667, § 4; A.S.A. 1947, § 67-1612; Acts 1997, No. 540, § 78; 2015 (1st Ex. Sess.), No. 7, § 90; 2015 (1st Ex. Sess.), No. 8, § 90.

15-4-916. Acts 1957, No. 567, § 13; 1985, No. 667, § 6; A.S.A. 1947, § 67-1613.

15-4-917. Acts 1957, No. 567, § 14; A.S.A. 1947, § 67-1614.

15-4-918. Acts 1957, No. 567, § 14; A.S.A. 1947, § 67-1614.

15-4-919. Acts 1957, No. 567, § 15; A.S.A. 1947, § 67-1615.

15-4-920. Acts 1957, No. 567, § 20; A.S.A. 1947, § 67-1620.

15-4-921. Acts 1957, No. 567, § 21; A.S.A. 1947, § 67-1621.

15-4-922. Acts 1957, No. 567, § 17; A.S.A. 1947, § 67-1617.

15-4-923. Acts 1957, No. 567, § 18; 1985, No. 667, § 5; A.S.A. 1947, § 67-1618.

15-4-924. Acts 1957, No. 567, § 22; A.S.A. 1947, § 67-1622.

15-4-925. Acts 1957, No. 567, § 23; A.S.A. 1947, § 67-1623.

15-4-926. Acts 1957, No. 567, § 24; A.S.A. 1947, § 67-1624.

15-4-927. Acts 1957, No. 567, § 16; A.S.A. 1947, § 67-1616.

SUBCHAPTER 10 — ARKANSAS CAPITAL DEVELOPMENT COMPANY ACT**[REPEALED.]**

SECTION.

15-4-1001 — 15-4-1004. [Repealed.]

15-4-1008, 15-4-1009. [Repealed.]

SECTION.

15-4-1011 — 15-4-1019. [Repealed.]

15-4-1022 — 15-4-1031. [Repealed.]

A.C.R.C. Notes. Pursuant to § 1-2-207(b) and Acts 2017, No. 374, § 44, § 15-4-1026 is deemed repealed by Acts 2017, No. 426, § 4. Acts 2017, No. 374, § 44 amended subdivision (a)(3)(B) of this section to change the phrase “proceeds by the funds” to “proceeds by the venture capital funds or private equity funds”.

Acts 2017, No. 374, § 44, provided: “Construction and legislative intent. It is the intent of the General Assembly that:

“(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-First General Assembly;

“(2) To the extent that a conflict exists between an act of the regular session of

the Ninety-First General Assembly and this act:

“(A) The act of the regular session of the Ninety-First General Assembly shall be treated as a subsequent act passed by the General Assembly for the purpose of:

“(i) Giving the act of the regular session of the Ninety-First General Assembly its full force and effect; and

“(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

“(B) Section 1-2-107 shall not apply; and

“(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987.”

15-4-1001 — 15-4-1004. [Repealed.]

Publisher’s Notes. These sections, concerning title, definitions, construction and application for approval, were repealed by Acts 2017, No. 426, § 4. The sections were derived from the following sources:

15-4-1001. Acts 1985, No. 410, § 1; A.S.A. 1947, § 67-1627; Acts 2003, No. 860, § 1.

15-4-1002. Acts 1985, No. 410, § 2; A.S.A. 1947, § 67-1628; Acts 2003, No. 860, § 1; 2007, No. 15, § 2.

15-4-1003. Acts 1985, No. 410, § 29; A.S.A. 1947, § 67-1655.

15-4-1004. Acts 1985, No. 410, § 3; A.S.A. 1947, § 67-1629; Acts 2003, No. 860, § 2.

15-4-1008, 15-4-1009. [Repealed.]

Publisher’s Notes. These sections, concerning ex officio members of the governing board and liability of governing board and officers, were repealed by Acts 2017, No. 426, § 4. The sections were derived from the following sources:

15-4-1008. Acts 1985, No. 410, § 7;

A.S.A. 1947, § 67-1633; Acts 1997, No. 540, § 79; 2003, No. 860, § 4; 2005, No. 1759, § 1; 2015 (1st Ex. Sess.), No. 7, § 91; 2015 (1st Ex. Sess.), No. 8, § 91.

15-4-1009. Acts 1985, No. 410, § 16; A.S.A. 1947, § 67-1642; Acts 2003, No. 860, § 4.

15-4-1011 — 15-4-1019. [Repealed.]

Publisher’s Notes. These sections, concerning investigation and approval by the State Banking Board, commencement of existence, articles, amendment to articles, management of a capital development company, power, dividends and distributions, bonds or notes of the company, and authority of other corporations and financial institutions, were repealed by Acts 2017, No. 426, § 4. The sections were derived from the following sources:

15-4-1011. Acts 1985, No. 410, § 9;

A.S.A. 1947, § 67-1635; Acts 2003, No. 860, § 6.

15-4-1012. Acts 1985, No. 410, § 10; A.S.A. 1947, § 67-1636; Acts 2003, No. 860, § 6.

15-4-1013. Acts 1985, No. 410, § 11; A.S.A. 1947, § 67-1637; Acts 2003, No. 860, § 6.

15-4-1014. Acts 1985, No. 410, § 12; A.S.A. 1947, § 67-1638; Acts 2003, No. 860, § 6.

15-4-1015. Acts 1985, No. 410, § 13;

A.S.A. 1947, § 67-1639; Acts 2003, No. 860, § 6; 2005, No. 1759, § 2.

15-4-1016. Acts 1985, No. 410, § 14; A.S.A. 1947, § 67-1640; Acts 2003, No. 860, § 6.

15-4-1017. Acts 1985, No. 410, § 15; A.S.A. 1947, § 67-1641; Acts 2003, No. 860, § 6.

15-4-1018. Acts 1985, No. 410, § 18; A.S.A. 1947, § 67-1644; Acts 2003, No. 860, § 6.

15-4-1019. Acts 1985, No. 410, § 19; A.S.A. 1947, § 67-1645; Acts 2003, No. 860, § 6.

15-4-1022 — 15-4-1031. [Repealed.]

Publisher's Notes. These sections, concerning compliance with the Arkansas Securities Act, obligations as negotiable instruments, eligibility for certain investments, exemption from certain taxes, tax credit, investment and loan policy, supervision of capital development companies, dissolution, merger and application of business laws, were repealed by Acts 2017, No. 426, § 4. The sections were derived from the following sources:

15-4-1022. Acts 1985, No. 410, § 22; A.S.A. 1947, § 67-1648; Acts 2003, No. 860, § 8.

15-4-1023. Acts 1985, No. 410, § 23; A.S.A. 1947, § 67-1649; Acts 2003, No. 860, § 8.

15-4-1024. Acts 1985, No. 410, § 24; A.S.A. 1947, § 67-1650; Acts 2003, No. 860, § 8.

15-4-1025. Acts 1985, No. 410, § 25; A.S.A. 1947, § 67-1651; Acts 2003, No. 860, § 8.

15-4-1026. Acts 1985, No. 410, § 26; A.S.A. 1947, § 67-1652; Acts 1991, No. 333, § 1; 2003, No. 860, § 8; 2005, No. 1232, § 4; 2005, No. 1759, §§ 3, 4; 2007, No. 566, §§ 2, 3.

15-4-1027. Acts 1985, No. 410, § 27; A.S.A. 1947, § 67-1653; Acts 2003, No. 860, § 8.

15-4-1028. Acts 1985, No. 410, § 28; A.S.A. 1947, § 67-1654; Acts 2003, No. 860, § 8; 2005, No. 1994, § 300.

15-4-1029. Acts 1985, No. 410, § 17; A.S.A. 1947, § 67-1643; Acts 2003, No. 860, § 8; 2005, No. 1759, § 5.

15-4-1030. Acts 2003, No. 860, § 9.

15-4-1031. Acts 2003, No. 860, § 9.

SUBCHAPTER 12 — COUNTY AND REGIONAL INDUSTRIAL DEVELOPMENT COMPANY ACT

SECTION.

15-4-1210. Commencement and continuation of existence.

15-4-1215. Dividends and distributions.

15-4-1218. Member financial institutions — Loan limits.

15-4-1224. [Repealed.]

SECTION.

15-4-1226. Supervision of companies.

15-4-1227. Dissolution of company.

15-4-1228. Investigations by Bank Commissioner or Securities Commissioner — Injunctions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-4-1210. Commencement and continuation of existence.

(a) Upon the issuance of the certificate of incorporation or certificate of organization by the Bank Commissioner, the existence of the company shall begin.

(b) The certificate of incorporation or certificate of organization shall be conclusive evidence, except as against the state, that all conditions precedent required to be performed by the applicants have been complied with and that the company has been organized under this subchapter.

(c) A copy of the articles of incorporation or articles of organization so endorsed by the commissioner, as prescribed in § 15-4-1209, shall be filed for recordation in the office of the county clerk in the county in which the principal office of the company is located, and a copy shall be delivered to the Secretary of the Department of Finance and Administration.

(d) The company shall pay to the commissioner in semiannual billings four hundred dollars (\$400) per year to establish and continue its existence and good standing under this subchapter.

History. Acts 1991, No. 1029, § 8; substituted “Secretary” for “Director” in 1999, No. 37, § 9; 2019, No. 910, § 3395. (c).

Amendments. The 2019 amendment

15-4-1215. Dividends and distributions.

(a) The directors of a corporation, subject to such limitations as may be set forth in the articles of incorporation or bylaws of the corporation, may declare dividends to the holders of its stock and make partial distribution of its capital surplus pursuant to the provisions of the Arkansas Business Corporation Act of 1987, § 4-27-101 et seq.

(b) The management committee of a limited liability company, subject to such limitations as may be set forth in the articles of organization or the operating agreement, may declare distributions to the holders of the units of interest in the limited liability company consistent with the provisions of the Uniform Limited Liability Company Act, § 4-38-101 et seq.

History. Acts 1991, No. 1029, § 13; Company Act, § 4-38-101 et seq.” for 1999, No. 37, § 14; 2021, No. 1041, § 30. “Small Business Entity Tax Pass Through

Amendments. The 2021 amendment substituted “Uniform Limited Liability Act, § 4-32-101 et seq.” in (b).

15-4-1218. Member financial institutions — Loan limits.

(a) Any financial institution may request membership in the company by making application to the board of directors or the management committee on such form and in such manner as the board of directors or the management committee may require, and membership shall become effective upon the acceptance of the application by the board of directors or the management committee.

(b) Each member of the company may make loans to the company as and when called upon by it to do so on such terms and other conditions as shall be approved from time to time by the board of directors or the management committee, subject to the following conditions:

(1) All loan limits shall be established at the thousand-dollar amount nearest to the amount computed in accordance with the provisions of this section;

(2) No loan to a company organized under this subchapter shall be made by members pursuant to a call made by the company if immediately thereafter the total amount of the loans will exceed ten (10) times the amount then paid in on the outstanding stock or the units of interest of the company plus ten (10) times the earned surplus of a corporation less reserves or ten (10) times the undistributed earnings of a limited liability company less reserves;

(3) The total amount outstanding on loans to a company made by any member at any one (1) time, when added to the amount of the investment in the capital stock or the units of interest of the company then held by that member, shall not exceed the limitation on loans established by law, rule, or regulation applicable to the member or, in the absence of any limitation, the amount approved by the board of directors or the management committee for that member;

(4)(A) Each call made by the company may be prorated among members of a company in substantially the same proportion that the adjusted loan limit of each member bears to the aggregate of the adjusted loan limits of all members.

(B) The adjusted loan limit of a member shall be the amount of the member's loan limit, reduced by the balance of outstanding loans made by the member to the company and the investment in capital stock of a corporation or units of interest in a limited liability company held by the member at the time of the call, and further reduced, in the case of a member who has assumed the obligation of a financial institution withdrawn from membership pursuant to § 15-4-1219(a)(2), by the balance of outstanding loans made to the company by the financial institution; and

(5) All loans to a company by members shall be evidenced by bonds, debentures, notes, or other evidence of indebtedness of the company which shall be freely transferable at all times and which shall bear interest at a rate which may be adjusted from time to time in a manner determined by the board of directors or the management committee. The rate shall not be less than one-quarter of one percent (0.25%) in excess of the prime or base rate of interest prevailing at the time of the adjustment for commercial banks in the City of Little Rock on unsecured commercial loans.

History. Acts 1991, No. 1029, § 18; 1999, No. 37, § 17; 2019, No. 315, § 1059.

Amendments. The 2019 amendment inserted "rule" in (b)(3).

15-4-1224. [Repealed.]

Publisher's Notes. This section, concerning tax credit, was repealed by Acts 1991, No. 1029, § 24; 1995, No. 363, § 1; 1995, No. 1044, § 1; 2017, No. 374, § 5. The section was derived from Acts 1991, No. 1029, § 24; 1995, No. 363, § 1; 1995, No. 1044, § 1; 1999, No. 37, § 23.

15-4-1226. Supervision of companies.

(a)(1) Each company organized under the provisions of this subchapter shall be subject to the general supervision and control of the Bank Commissioner.

(2) In addition to the other duties imposed upon them by law, the powers of the Bank Commissioner are to:

(A) Make reasonable rules which may be necessary to regulate the safety and soundness of the companies for making this subchapter effective;

(B) Conduct investigations which may be necessary to determine whether any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this subchapter or of the laws of this state;

(C) Conduct any examinations, investigations, and hearings which may be necessary and proper for the efficient administration of the county and regional industrial development company laws of this state and to charge the company for the expense of such examination, investigation, or hearing at the rate of two hundred twenty-five dollars (\$225) per examiner per day or partial day; and

(D)(i) Within the Bank Commissioner's discretion, classify as confidential certain records and information obtained by the State Bank Department when such matters are obtained from an investigation or examination by the department's staff.

(ii) However, applications shall be public documents.

(b) With respect to § 15-4-1220, each company organized under the provisions of this subchapter shall be subject to the specific regulation and control of the Securities Commissioner, who shall have the authority to:

(1) Make reasonable rules which may be necessary for making § 15-4-1220 effective;

(2) Conduct investigations and hearings which may be necessary to determine whether any person has engaged in or is about to engage in any act or practice constituting a violation of § 15-4-1220 and to charge the company for the expense of such an investigation or hearing at the rate of two hundred twenty-five dollars (\$225) per investigator per day or partial day;

(3) Conduct any examinations, investigations, and hearings which may be necessary and proper for the efficient administration and application of § 15-4-1220 to county and regional industrial development companies; and

(4) Within the Securities Commissioner's discretion, classify as confidential certain records and information obtained by the Securities

Commissioner when such matters are obtained from an investigation or examination by the department's staff.

History. Acts 1991, No. 1029, § 26; 1997, No. 904, § 1; 1999, No. 37, § 25; 2019, No. 315, §§ 1060, 1061.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (a)(2)(A) and (b)(1).

15-4-1227. Dissolution of company.

(a) Any company organized under this subchapter, after the payment in full and cancellation of all its notes, bonds, and other obligations issued under the provisions of this subchapter or after the deposit in trust with the respective trustees designated in any deeds of trust given to secure the payment of any such obligations of a sum of money sufficient for the purpose, may dissolve by a vote of a majority of the common stock of a corporation or by a vote of a majority of the units of interest of a limited liability company, represented in person or by proxy, at any regular meeting or at any special meeting of the holders of the common stock of a corporation or the holders of the units of interest of a limited liability company called for that purpose.

(b) A certificate of dissolution shall be signed by the chief executive officer and attested by the chief financial officer certifying to the dissolution and stating that they have been authorized to execute and file the certificate by a vote cast in person or by proxy by holders of a majority of the common stock of a corporation or by holders of a majority of the units of interest of a limited liability company.

(c) The certificate of dissolution shall be executed, acknowledged, and filed and recorded in the same manner as the original articles of incorporation or articles of organization, and as soon as the Bank Commissioner shall have accepted and endorsed on the certificate of dissolution his or her approval thereof, the company shall be deemed to be dissolved.

(d)(1) However, the company shall be continued for the purposes of:

(A) Paying, satisfying, and discharging any other existing liabilities or obligations;

(B) Collecting or liquidating its assets; and

(C) Doing all other acts required to adjust and conclude its business and affairs.

(2) The company may sue and be sued in its corporate or limited liability company name.

(e) Any assets remaining after all liabilities or other obligations of the company have been satisfied or discharged shall be distributed pro rata first among the then-holders, if any, of any stock of a corporation or the then-holders, if any, of any units of interest of a limited liability company entitled to a preference, and the remaining assets of the company shall then be distributed pro rata among the then-holders of the common stock of a corporation or among the then-holders of the units of interest of a limited liability company not entitled to any such preferences.

(f) A copy of the certificate of dissolution as accepted and endorsed by the commissioner, as prescribed in subsection (c) of this section, shall be filed for recordation in the office of the county clerk in the county in which the principal office of the company is located, and a copy shall be delivered to the Secretary of the Department of Finance and Administration.

History. Acts 1991, No. 1029, § 15; substituted “Secretary” for “Director” in 1999, No. 37, § 26; 2019, No. 910, § 3396. (f).

Amendments. The 2019 amendment

15-4-1228. Investigations by Bank Commissioner or Securities Commissioner — Injunctions.

(a) The Bank Commissioner may investigate, either upon complaint or otherwise, when it appears that a county or regional industrial development company is conducting its business in an unsafe and injurious manner or in violation of this subchapter or the rules promulgated under this subchapter by the Bank Commissioner or when it appears that any person is engaging in the business without being approved under the provisions of this subchapter.

(b) The Securities Commissioner may investigate, either upon complaint or otherwise, when it appears that a county or regional industrial development company is offering its securities in violation of § 15-4-1220 or is otherwise violating the provisions of Arkansas law that come under the jurisdiction of the Securities Commissioner.

(c)(1) Subject to the jurisdictional provisions of subsections (a) and (b) of this section, whenever it appears upon sufficient grounds or evidence satisfactory to the Bank Commissioner or the Securities Commissioner that any county or regional industrial development company has engaged in or is about to engage in any act or practice in violation of this subchapter or any rule or order under this subchapter, or the assets or capital of any county or regional industrial development company is impaired or the county or regional industrial development company’s affairs are in an unsafe condition, the Bank Commissioner or the Securities Commissioner may:

(A) Refer the evidence which is available concerning violations of this subchapter or any rule or order under this subchapter to the appropriate agency, which may institute the appropriate corrective action or proceedings with or without the reference; or

(B)(i) Summarily order the county or regional industrial development company to cease and desist from the act or practice during the time the Bank Commissioner or the Securities Commissioner may apply to the Pulaski County Circuit Court to enjoin the act or practice and to enforce compliance with this subchapter or any rule or order under this subchapter.

(ii) However, the Bank Commissioner or the Securities Commissioner may apply directly to the Pulaski County Circuit Court for injunctive relief without issuing a cease and desist order.

(2) Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the county or regional industrial development company or its assets.

(3) The court may not require the Bank Commissioner or the Securities Commissioner to post a bond.

(4) In addition to any other remedy provided in this subchapter or under applicable law, the costs of the Bank Commissioner or the Securities Commissioner incurred in successfully prosecuting violations of this subchapter may be imposed by the court as additional damages payable by the company.

(d) A copy of all reports of the investigation or other proceedings conducted pursuant to this section shall be forwarded to the Secretary of the Department of Finance and Administration.

History. Acts 1997, No. 904, § 2; 1999, No. 37, § 27; 2019, No. 315, §§ 1062, 1063; 2019, No. 910, § 3397.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a); deleted “or regulation” follow-

ing “rule” in the introductory language of (c)(1); and deleted “regulation” following “rule” in (c)(1)(A) and (c)(1)(B)(i).

The 2019 amendment by No. 910 substituted “Secretary” for “Director” in (d).

SUBCHAPTER 14 — INVENTORS’ ASSISTANCE ACT

SECTION.

15-4-1404. Authority of board.

15-4-1407. Product development — Contracts.

15-4-1404. Authority of board.

(a) The Board of Trustees of the University of Arkansas, on behalf of the Center for Prototype Development and Emerging Technologies, may:

(1) Enter into contracts on a competitive-bid basis or noncompetitive-bid basis, consistent with state laws and rules, with public and private agencies, institutions, organizations, and individuals for the purpose of providing assistance to and services for inventors as required by this subchapter;

(2) Solicit the support and contribution of public and private agencies, organizations, institutions, and individuals;

(3) Receive and administer funds for the purpose of operating the inventors’ assistance program;

(4) Advertise and promote the inventors’ assistance program;

(5) Adopt policies and procedures to implement the provisions of this subchapter; and

(6) Acquire security interests in intellectual property to the extent necessary to protect the state’s interest in the fees charged pursuant to § 15-4-1406.

(b) The board, on behalf of the center, is authorized to enter into a written contract with each center employee which shall include provi-

sions designed to protect the confidentiality of inventors' proposals and to prohibit the employee from using information gained at the center to compete with or disadvantage any inventor.

History. Acts 1991, No. 707, §§. 4, 5; substituted "rules" for "regulations" in 2019, No. 315, § 1064.

Amendments. The 2019 amendment

15-4-1407. Product development — Contracts.

(a)(1) If a proposal is accepted for product development, the Center for Prototype Development and Emerging Technologies at the University of Arkansas at Little Rock shall prepare a product development plan which will include a technical plan for developing the product, time schedule, and estimated cost.

(2) The center will have an established policy for making decisions to develop products utilizing appropriate resources and bringing the products to a commercial state.

(3) The services of the center may include patent searches, applications for patent, copyright registration, market analysis, product research and development, assistance in obtaining financing, including financing from private resources, and business counseling.

(b)(1) If the inventor wants the center to develop the product according to the product development plan but is unable to finance all or part of the development, then the center may develop the product using in part its own or other resources, provided such resources are available.

(2) The inventor shall be liable to pay a fee according to the policy set forth in subdivision (c)(3) of this section.

(3) The inventor may finance the product development plan in full and, in such cases, there will not be any additional fee involved.

(c) Before services to aid in the development of the product shall commence, the Board of Trustees of the University of Arkansas, on behalf of the center, shall enter into a written contract with the inventor which shall include, in addition to any other provisions consistent with this subchapter:

(1) The services which the center will provide to aid in the development of the product;

(2) Any other services which the center will assist the inventor in obtaining and for which the inventor shall be liable pursuant to written consent;

(3)(A) Authorization for the center to receive a fee not to exceed an amount equal to:

(i) Ten percent (10%) of all royalties from the product for a period not to exceed ten (10) years from the first day after royalties are first received by the inventor;

(ii) One percent (1%) of the gross sales revenue for a period not to exceed ten (10) years from the first day after the product reaches the commercial state;

(iii) An equitable percentage of any consideration received from the sale, licensing, or transfer of any interest in intellectual property or proprietary products; or

(iv) Any combination of amounts under subdivisions (c)(3)(A)(i)-(iii) of this section.

(B) The fees shall be based on a consideration of the following factors:

(i) The inventor's contribution to the financing of the product according to the product development plan;

(ii) The center's contribution to the financing of the product according to the product development plan; and

(iii) The potential for commercial success of the product;

(4)(A) A written agreement from the inventor that all products developed under the inventors' assistance program shall be researched, developed, manufactured, and packaged within this state and distributed from this state, to the extent that it is economically feasible.

(B) Provided, wherever the products are manufactured, the fee set forth in subdivision (c)(3) of this section shall accrue to this state pursuant to the provisions of this subchapter;

(5) Provision for acquisition by the center of any security interest in intellectual property as required to protect the state's interest in the fee set forth in subdivision (c)(3) of this section;

(6) Agreement by the inventor that any assignment, sale, or licensing of a product or intellectual property developed under the program shall be subject to the center's security interest and that any contract with a third party for the assignment, sale, or licensing of a product or intellectual property developed under the program shall explicitly condition such assignment, sale, or license on the prior rights of the center; and

(7) Provision for such fiscal reporting by the inventor, the inventor's assignee, or licensee as may be necessary to assure the performance of all provisions of the written contract.

History. Acts 1991, No. 707, § 5; 2017, No. 374, § 6.

Amendments. The 2017 amendment added (c)(3)(A)(iv).

SUBCHAPTER 16 — ARKANSAS ECONOMIC DEVELOPMENT INCENTIVE ACT OF 1993

SECTION.

15-4-1602. Definitions.

15-4-1604. Powers and duties of the Arkansas Economic Development Commission.

SECTION.

15-4-1606. Limitations.

15-4-1608. Verification.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause

provided: "It is found and determined by the General Assembly of the State of Ar-

kansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Effi-

ciencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-4-1602. Definitions.

As used in this subchapter:

(1) "Annual payroll" means the wages of the net new full-time permanent employees based on the payroll for the previous twelve (12) months reported to the Division of Workforce Services and is computed by using the total of the net new full-time permanent employees' reported taxable earnings, including overtime pay;

(2) "Commission" means the Arkansas Economic Development Commission;

(3) "Corporate or regional headquarters" means the home or center of operations, including research and development, of a national or multinational corporation;

(4) "Distribution center" means a facility for the reception, storage, or shipping of:

(A) A business's own products or products which the business wholesales to retail businesses or ships to its own retail outlets;

(B) Products owned by other companies with which the business has contracts for storage and shipping if seventy-five percent (75%) of the sales revenues are from out-of-state customers; or

(C) Products for sale to the general public if seventy-five percent (75%) of the sales revenues are from out-of-state customers;

(5) [Repealed.]

(6)(A) "Existing employees" means those employees hired by the business prior to the date of the signed financial incentive plan.

(B) Existing employees may be considered "net new full-time permanent employees" only if:

(i) The position or job filled by the existing employee was created in accordance with the signed financial incentive plan; and

(ii) The position vacated by the existing employee was either filled by a subsequent employee or no subsequent employee will be hired because the business no longer conducts the particular business activity requiring such classification;

(7) "Financial incentive plan" means an agreement entered into by a business and the commission to provide the business an incentive to locate a new facility or expand an existing facility in Arkansas;

(8) "Fund" means the Economic Development Incentive Fund;

(9)(A) "High unemployment" means an unemployment rate equal to or in excess of one hundred fifty percent (150%) of the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the division when the state's annual average unemployment rate is six percent (6%) or below.

(B) When the state's annual average unemployment rate is above six percent (6%), "high unemployment" means equal to or in excess of three percent (3%) above the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the division;

(10)(A)(i) "Net new full-time permanent employee" means a position or job which was created pursuant to a signed financial incentive plan and which is filled by one (1) or more employees or contractual employees who were Arkansas taxpayers during the year in which the tax credits or incentives were earned.

(ii) The position or job held by such an employee or employees must have been filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours per week.

(B) However, in order to qualify for the provisions of this subchapter, a contractual employee must be offered a benefits package comparable to a direct employee of the business seeking incentives under this subchapter; and

(11) "Office sector" means control centers that influence the environment in which data processing, customer service, credit accounting, telemarketing, claims processing, and other administrative functions that act as production centers are performed.

History. Acts 1993, No. 788, § 2; 1993, No. 851, § 2; 1995, No. 590, § 1; 1997, No. 540, §§ 31, 85; 1997, No. 807, § 11; 1999, No. 584, § 1; 2001, No. 1054, §§ 1-3; 2019, No. 910, §§ 365-367.

Amendments. The 2019 amendment

substituted "Division of Workforce Services" for "Department of Workforce Services" in (1); repealed (5); and substituted "Division of Workforce Services" for "department" in (9)(A) and (9)(B).

15-4-1604. Powers and duties of the Arkansas Economic Development Commission.

The Arkansas Economic Development Commission shall administer the provisions of this subchapter and shall have the following powers and duties in addition to those mentioned in this subchapter and in other laws of this state:

(1) To promulgate rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to carry out the provisions of this subchapter;

(2)(A) In highly competitive situations, the Director of the Arkansas Economic Development Commission is authorized to negotiate proposals on behalf of the state with prospective businesses which are considering locating a new facility or expanding an existing facility

that would employ the requisite number of net new full-time permanent employees provided by § 15-4-1605.

(B) The commission is authorized to negotiate with the business a financial incentive plan up to an amount equal to three and nine-tenths percent (3.9%) of the business's annual payroll for the net new full-time permanent employees, and may negotiate with the business a financial incentive plan up to an amount equal to five percent (5%) of the annual payroll for the net new full-time permanent employees if the business locates in an area of high unemployment as defined by § 15-4-1602;

(3) To provide the Department of Finance and Administration with a copy of each formal agreement entered into by the commission with each of the qualifying businesses so that the department will know how much money is to be designated for the Economic Development Incentive Fund each quarter; and

(4) To make disbursement from the fund to qualified businesses which have entered into financial incentive plans.

History. Acts 1993, No. 788, § 4; 1993, No. 851, § 4; 1999, No. 584, § 3; 2019, No. 315, § 1065; 2019, No. 910, § 368.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (1).

The 2019 amendment by No. 910 substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (2)(A).

15-4-1606. Limitations.

The following limitations shall apply to all financial incentive plans negotiated by the Arkansas Economic Development Commission:

(1)(A) The term of a financial incentive plan shall not exceed one hundred twenty-six (126) months.

(B)(i) For defense industry projects, as defined in § 26-52-702 [repealed], the one hundred and twenty-six (126) months shall be calculated forward from the date certification of the mandatory number of employees is granted by the Department of Finance and Administration.

(ii) For all other financial incentive plans, the one hundred twenty-six (126) months shall be calculated forward from the date of the financial incentive plan entered into by the business and the commission;

(2) The business shall not be entitled to the benefits of a financial incentive plan entered into with the commission until twelve (12) months after it has hired the requisite number of net new full-time permanent employees and has certified that fact to the department as required by this subchapter;

(3)(A) If the number of net new full-time permanent employees drops below the requisite number provided in § 15-4-1605, all benefits under the financial incentive plan entered into with the commission shall be terminated unless the Director of the Arkansas Economic Development Commission and the Chief Fiscal Officer of the State

approve a written request filed by the business explaining why the number of net new full-time permanent employees fell below the requisite number. The director and the Chief Fiscal Officer of the State may grant the business up to twenty-four (24) months to bring the number of net new full-time permanent employees back up to the requisite number and may approve the continuation of benefits during that period.

(B)(i) In the event that the requisite number of net new full-time permanent employees cannot be employed within the twenty-four-month period, the business can file a written application with the commission explaining why additional time is necessary. The business can be afforded up to twenty-four (24) more months to hire the requisite number of employees if the director and the Chief Fiscal Officer of the State agree.

(ii) In the event that a business fails to notify the department that the number of net new full-time permanent employees has fallen below the required number to continue to receive benefits under a financial incentive plan, that business will be liable for the repayment of all benefits which were paid to the business after it no longer qualified for the benefits. Interest shall also be due at the rate of ten percent (10%) per annum;

(4)(A) The financial benefits received by a business shall be used in accordance with the financial incentive plan entered into with the commission.

(B)(i) Financial incentive plans shall designate how the funds are to be used by the business.

(ii) A financial incentive plan may designate funds for employee training, infrastructure, or other purposes agreed to by the business and the director; and

(5) Recipients of benefits under this subchapter are precluded from receiving benefits under the Arkansas Economic Development Act of 1995, § 15-4-1901 et seq.

History. Acts 1993, No. 788, § 6; 1993, No. 851, § 6; 1995, No. 820, § 1; 1997, No. 807, § 22; 1999, No. 584, § 5; 2001, No. 737, § 4; 2017, No. 374, § 7; 2019, No. 910, §§ 369, 370.

Amendments. The 2017 amendment deleted “§ 2-8-101 et seq. [repealed] and” following “under” in (5).

The 2019 amendment substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in the first sentence of (3)(A); and deleted “executive” preceding “director” in the second sentence of (3)(A) and in (4)(B)(ii).

15-4-1608. Verification.

(a) The Department of Finance and Administration shall have the authority to obtain whatever information necessary from participating businesses and from the Division of Workforce Services to verify that businesses which have entered into financial incentive plans with the Arkansas Economic Development Commission are complying with the terms of the financial incentive plans and reporting accurate informa-

tion concerning the number of employees and their payrolls to the department.

(b) The department may promulgate rules necessary for the proper administration of the provisions of this subchapter.

History. Acts 1993, No. 788, § 8; 1993, No. 851, § 8; 1995, No. 590, § 3; 2019, No. 315, § 1066; 2019, No. 910, § 371.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (b).

The 2019 amendment by No. 910 substituted “Division of Workforce Services” for “Department of Workforce Services” in (a).

SUBCHAPTER 17 — ARKANSAS ENTERPRISE ZONE ACT OF 1993

SECTION.

15-4-1702. Definitions.

15-4-1703. Powers and duties of the Arkansas Economic Development Commission.

SECTION.

15-4-1704. Refund of sales and use tax — Tax credit.

15-4-1709. Exceptions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-4-1702. Definitions.

As used in this subchapter:

(1)(A) “Average hourly wage” means the average wage of the net new full-time permanent employees based on payroll for the most recent quarter reported to the Division of Workforce Services.

(B) “Average hourly wage” is computed by using the total of the net new full-time permanent employee’s reported taxable earnings, including overtime pay and one-fourth (¼) of the employee’s annual bonus amount, divided by the number of weeks worked during the most recent quarter, divided by the average hours worked per week per net new full-time permanent employee;

(2) “Commission” means the Arkansas Economic Development Commission;

(3) “Corporate headquarters” means the home or center of operations, including research and development, of a national or multinational corporation;

(4) "Distribution center" means a facility for the reception, storage, or shipping of:

(A) A business's own products or products that the business wholesales to retail businesses or ships to its own retail outlets;

(B) Products owned by other companies with which the business has contracts for storage and shipping if seventy-five percent (75%) of the sales revenues are from out-of-state customers; or

(C) Products for sale to the general public if seventy-five percent (75%) of the sales revenues are from out-of-state customers;

(5) [Repealed.]

(6)(A) "Existing employees" means those employees hired by the business prior to the date of the financial incentive plan.

(B) Existing employees may be considered net new full-time permanent employees only if:

(i) The position or job filled by the existing employee was created as a result of the project; and

(ii) The position vacated by the existing employee was either filled by a subsequent employee or no subsequent employee would be hired because the business no longer conducts the particular business activity requiring such a classification;

(7) "Financial incentive plan" means an agreement entered into by a business and the commission to provide the business an incentive to locate a new facility or expand an existing facility in Arkansas;

(8) "Governing authority" means the quorum court of a county or the governing body of a municipality;

(9)(A) "High unemployment" means an unemployment rate equal to or in excess of one hundred fifty percent (150%) of the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the division when the state's annual average unemployment rate is six percent (6%) or below.

(B) When the state's annual average unemployment rate is above six percent (6%), "high unemployment" means an unemployment rate equal to or in excess of three percent (3%) above the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the division;

(10) "Modernization" means to increase efficiency or to increase productivity of the business through investment in machinery or equipment, or both, and shall not include costs for routine maintenance;

(11)(A)(i) "Net new full-time permanent employee" means a position or job that was created pursuant to a signed financial incentive plan and that is filled by one (1) or more employees or contractual employees who were Arkansas taxpayers during the year in which the tax credits or incentives were earned.

(ii) The position or job held by the employee or employees must have been filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours per week.

(B) However, in order to qualify for the provisions of this subchapter, a contractual employee must be offered a benefits package

comparable to a direct employee of the business seeking incentives under this subchapter.

(C) Employees could not have been claimed for tax credits or incentives under this subchapter during the preceding taxable year.

(D) The number of net new full-time permanent employees shall be equal to the total number of new full-time permanent employees for the current year minus the total number of new full-time permanent employees for the previous tax year;

(12) "Office sector business" means control centers that influence the environment in which data processing, customer service, credit accounting, telemarketing, claims processing, and other administrative functions that act as production centers are performed;

(13) "Program" means this subchapter;

(14)(A) "Project" means:

(i) All activities and costs associated with the construction of a new plant or facility;

(ii) The expansion of an established plant or facility by adding to the building or production equipment or support infrastructure, or both; or

(iii) Modernization through the replacement of production or processing equipment or support infrastructure, or both.

(B) Expenditures for routine repair and maintenance that do not result in new construction or expansion are ineligible for benefits under this subchapter.

(C) In order to receive credit for project costs, the costs must be incurred within four (4) years from the date the project plan was approved by the commission.

(D) Routine operating expenditures are ineligible for benefits under this subchapter;

(15) "Project plan" means the plan submitted to the commission containing such information as may be required by the director to determine eligibility for benefits;

(16) "Regional headquarters" means the center of operations for a specific geographical area;

(17) "Routine maintenance" means the replacement of existing machinery parts with like parts; and

(18) "Trucking sector business" means a business that is classified within the Standard Industrial Classification code number 4231.

History. Acts 1993, No. 947, § 2; 1995, No. 394, §§ 1-3; 1997, No. 540, §§ 33, 86; 1997, No. 807, §§ 1, 12; 1999, No. 1130, § 2; 2001, No. 807, § 1; 2001, No. 1401, § 4; 2003, No. 1473, § 31; 2019, No. 910, §§ 372-374.

Amendments. The 2019 amendment substituted "Division of Workforce Services" for "Department of Workforce Services" in (1)(A); repealed (5); and deleted "executive" preceding "director" in (15).

15-4-1703. Powers and duties of the Arkansas Economic Development Commission.

The Arkansas Economic Development Commission shall administer the provisions of this subchapter and shall have the following powers and duties, in addition to those mentioned in this subchapter and in other laws of this state:

(1) To monitor the implementation and operation of this subchapter and to conduct a continuing evaluation of the progress made;

(2) To assist the governing authority in obtaining assistance from any other department of state government, including assistance in providing training and technical assistance to new businesses and industries;

(3) To assist any employer or prospective employer with a qualifying project in obtaining the benefits of any incentive or inducement program authorized by state law;

(4) To act as a liaison between other state agencies and businesses and industries to assure that both the spirit and the intent of this subchapter are met;

(5) To submit an annual written report evaluating the effectiveness of the program and presenting any suggestions for improving the program, to be submitted to the Governor no later than March 1 of each year; and

(6) To promulgate rules, in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to carry out the provisions of this subchapter.

History. Acts 1993, No. 947, § 3; 1999, ~~deleted “and regulations” following “rules”~~
No. 1130, § 3; 2019, No. 315, § 1067. in (6).

Amendments. The 2019 amendment

15-4-1704. Refund of sales and use tax — Tax credit.

(a)(1) The Revenue Division of the Department of Finance and Administration shall authorize a refund of sales and use taxes imposed by the state and a municipality or county if the municipality or county authorized the refund of its local tax on the purchases of the material used in the construction of a building or buildings or any addition, modernization, or improvement thereon for housing any legitimate business enterprise and machinery and equipment to be located in or in connection with such a building.

(2) A refund shall not be authorized for routine operating expenditures.

(3)(A)(i) A refund shall not be authorized for the purchase of replacements of items previously purchased as part of a project under this subchapter unless the items previously purchased will not enable the project to function as originally intended.

(ii) In order to qualify for a refund under this subchapter, the replacement of an item previously purchased must be necessary for the implementation or completion of the project.

(B) However, a program participant may make changes in a project by amendment to the project plan filed with the Arkansas Economic Development Commission.

(4)(A) All claims for sales and use tax refunds under this subchapter shall be filed with the division within three (3) years from the date of the qualified purchase or purchases.

(B) Claims filed after three (3) years from the date of the qualified purchase or purchases shall be disallowed.

(5)(A) The time limitation in this section for filing claims shall be tolled if:

(i) A program participant fails to pay sales or use tax on an item that was taxable; and

(ii) The applicable tax is subsequently assessed as a result of an audit by the division.

(B) All claims for sales and use tax refunds relating to an audited purchase shall be filed with the division within one (1) year after payment of the assessed tax or the date of a final administrative or judicial order, whichever is later.

(6) A program participant that files a claim for a sales or use tax refund relating to an audited purchase shall be entitled to a refund of interest paid on the amount of tax assessed on the audited purchase if a refund is approved for the purchase.

(b) A sales and use tax refund as provided for in subsection (a) of this section shall be authorized, provided that the business is classified as one (1) of the following types of businesses:

(1) Manufacturers classified in Standard Industrial Classification codes 20-39, including semiconductor and microelectronic manufacturers, that create one (1) or more net new full-time permanent jobs;

(2)(A) Computer businesses primarily engaged in:

(i) Providing computer programming services;

(ii) The design and development of prepackaged software;

(iii) Businesses engaged in digital content production and digital preservation;

(iv) Computer processing and data preparation services;

(v) Information retrieval services; and

(vi) Computer and data processing consultants and developers.

(B) All businesses in this group must:

(i) Create five (5) or more net new full-time permanent jobs after July 1, 2001;

(ii) Derive at least seventy-five percent (75%) of their revenue from out-of-state sales; and

(iii) Have no retail sales to the general public;

(3) Businesses primarily engaged in commercial physical and biological research as classified by Standard Industrial Classification code 8731 that create one (1) or more net new full-time permanent jobs;

(4)(A) Businesses primarily engaged in motion picture production that will create twenty-five (25) or more net new full-time permanent jobs.

(B) All businesses in this group must derive at least sixty percent (60%) of their revenue from out-of-state sales and have no retail sales to the general public;

(5) A distribution center with no retail sales to the general public, unless seventy-five percent (75%) of the sales revenues are from out-of-state customers, that creates twenty-five (25) or more net new full-time permanent jobs;

(6) An office sector business with no retail sales to the general public that creates twenty-five (25) or more net new full-time permanent jobs;

(7) A corporate or regional headquarters with no retail sales to the general public that creates twenty-five (25) or more net new full-time permanent jobs;

(8) A trucking/distribution terminal as classified by Standard Industrial Classification code 4231 with no retail sales to the general public that creates twenty-five (25) or more net new full-time permanent jobs; and

(9) A coal mining operation that employs twenty-five (25) or more net full-time permanent persons.

(c) The business shall file an endorsement resolution with the commission and the Department of Finance and Administration. The endorsement resolution must be approved by the governing body of a municipality or county in whose jurisdiction the facility is located and must:

(1) Approve the specific entity's participation in the program; and

(2) Specifically state whether the municipality or county authorizes the department to refund local sales and use taxes to the entity under the program. A municipality or county can authorize the refund of all or part of a tax levied by it but cannot authorize the refund of any tax not levied by it.

(d) In the event it is found that any business receiving the benefits contained in subsection (a) of this section has failed to comply with the conditions contained in subsections (b) and (c) of this section, that business will be liable for the payment of all sales and use taxes which were refunded under subsection (a) of this section.

(e) If the business does not continuously and throughout the project term meet the requirements of subdivisions (b)(1)-(9) of this section, then that business shall automatically be disqualified from receiving any benefits under this section and shall be required to repay any tax benefits already received under this subchapter, plus penalty and interest, as allowed by law.

(f)(1) In the event that a business fails to notify the department that the number of employees has fallen below the required number to continue to receive benefits under this subchapter, that business will be liable for the repayment of all benefits which were paid to the business after it no longer qualified for the benefits.

(2) Interest shall also be due at the rate of ten percent (10%) per annum.

(g)(1) The requisite number of net new full-time permanent employees must be employed by the business within twenty-four (24) months following the date the financial incentive plan was signed.

(2) In the event that the requisite number of net new full-time permanent employees cannot be employed within the twenty-four-month period, the business can file a written application with the commission explaining why additional time is necessary. The business can be afforded up to twenty-four (24) more months to hire the requisite number of employees if the Director of the Arkansas Economic Development Commission and the Chief Fiscal Officer of the State determine that the need for additional time is due to:

(A) Unanticipated and unavoidable delay in the construction of a facility that must be completed before the employees can be hired;

(B) The project as originally planned will require more than twenty-four (24) months to complete; or

(C) A change in the business ownership or business structure due to a merger or acquisition.

(h)(1) The division shall authorize an income tax credit equal to one hundred (100) times the average hourly wage paid, with a maximum of three thousand dollars (\$3,000) per net new full-time permanent employee hired within sixty (60) months following the date of the approved financial incentive plan of a business qualifying under subsection (b) of this section.

(2)(A) This tax credit may be used for the taxable year in which the net new full-time permanent employee was hired.

(B) However, with respect to projects approved prior to March 25, 1997, if the entire credit cannot be used in the year earned, the remainder may be applied against the income tax for the succeeding four (4) years or until the credit is entirely used, whichever occurs first. For projects approved on or after March 25, 1997, the credit may be applied against income tax for the succeeding nine (9) years or until the credit is entirely used, whichever occurs first.

(3) The multiplier allowed under this section shall be four hundred (400) multiplied by the average hourly wage paid with a maximum credit of six thousand dollars (\$6,000) if the business is located in a high-unemployment county.

(i)(1) An income tax credit as provided for in subsection (h) of this section shall be authorized, provided that:

(A) The request for such a credit is accompanied by an endorsement resolution approved by the governing body of the appropriate municipality or county in whose jurisdiction the establishment is to be located; and

(B) All of the net new full-time permanent employees are employed at the facility.

(2)(A) In the event it is found that any business receiving the benefits contained in subsection (h) of this section has failed to comply with the conditions contained in this section, that business shall be disqualified from receiving any further benefits under the program

and shall be liable for the payment of such additional income taxes as may be due after the income tax credits provided for in subsection (h) of this section are disallowed.

(B) Interest shall also be due at the rate of ten percent (10%) per annum.

(j) To be counted as a net new full-time permanent employee for the purpose of qualifying for the tax credits and incentives provided in this section, the employee in the position or job must have been an Arkansas taxpayer during the year in which the tax credits or incentives were earned.

History. Acts 1993, No. 947, § 4; 1995, No. 394, §§ 4, 5; 1997, No. 807, §§ 2-9, 13; 1999, No. 1130, § 4; 2001, No. 807, §§ 2-4; 2001, No. 1065, § 1; 2001 No. 1401, § 2; 2005, No. 443, § 1; 2017, No. 374, § 8; 2019, No. 910, § 375.

Amendments. The 2017 amendment, in (e), substituted “(b)(1)-(9)” for “(b)(1)-(8)” and twice substituted “shall” for “will”.

The 2019 amendment substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in the second sentence of the introductory language of (g)(2).

15-4-1709. Exceptions.

(a) A county that does not qualify as a high-unemployment county, as defined in § 15-4-1702, but has experienced a sudden and severe period of economic distress caused by the closing of a business entity that results in the loss of a minimum of five hundred (500) full-time permanent jobs or a minimum of five percent (5%) of the employed labor force, as determined by the most recent “Labor Market Information” publication published by the Division of Workforce Services, may be designated as a high-unemployment county by the Arkansas Economic Development Council.

(b) The designation as a “high-unemployment county” shall be in effect for one (1) year after the closing of the business.

History. Acts 2001, No. 807, § 5; 2019, No. 910, § 376.

substituted “Division of Workforce Services” for “Department of Workforce Services” in (a).

Amendments. The 2019 amendment

SUBCHAPTER 19 — ARKANSAS ECONOMIC DEVELOPMENT ACT OF 1995

SECTION.

15-4-1902. Definitions.

15-4-1903. Powers and duties of the Arkansas Economic Development Commission.

SECTION.

15-4-1906. Refund of sales and use tax — Income tax credit.

15-4-1907. Verification.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by

the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should be-

come effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-4-1902. Definitions.

As used in this subchapter:

(1)(A) "Average hourly wage" means the average wage of the net new full-time permanent employees based on payroll for the most recent quarter reported to the Division of Workforce Services.

(B) "Average hourly wage" is computed by using the total of the net new full-time permanent employees' reported taxable earnings, including overtime pay and one-fourth ($\frac{1}{4}$) of the employee's annual bonus amount, divided by the number of weeks worked during the most recent quarter, divided by the average hours worked per week per net new full-time permanent employee;

(2) "Commission" means the Arkansas Economic Development Commission;

(3) "Corporate headquarters" means the home or center of operations, including research and development, of a national or multinational corporation;

(4) "Distribution center" means a facility for the reception, storage, or shipping of:

(A) A business's own products or products that the business wholesales to retail businesses or ships to its own retail outlets;

(B) Products owned by other companies with which the business has contracts for storage and shipping if seventy-five percent (75%) of the sales revenues are from out-of-state customers; or

(C) Products for sale to the general public if seventy-five percent (75%) of the sales revenues are from out-of-state customers;

(5) "Eligible business" is defined as one (1) or more of the following:

(A) Manufacturers classified in Standard Industrial Classification codes 20-39, including semiconductor and microelectronic manufacturers;

(B)(i) Computer businesses primarily engaged in providing computer programming services; the design and development of prepackaged software; businesses engaged in digital content production and preservation; computer processing and data preparation services; information retrieval services; and computer and data processing consultants and developers.

(ii) All businesses in this group must derive at least seventy-five percent (75%) of their revenue from out-of-state sales and have no retail sales to the general public;

(C) Businesses primarily engaged in commercial physical and biological research as classified by Standard Industrial Classification code 8731;

(D)(i) Businesses primarily engaged in motion picture productions.

(ii) All businesses in this group must derive at least seventy-five percent (75%) of their revenue from out-of-state sales and have no retail sales to the general public;

(E) A distribution center with no retail sales to the general public unless seventy-five percent (75%) of the sales revenues are from out-of-state customers;

(F) An office sector business with no retail sales to the general public; and

(G) A corporate or regional headquarters with no retail sales to the general public;

(6) [Repealed.]

(7) "Financial incentive plan" means an agreement entered into by a business and the commission to provide the business an incentive to locate a new facility or expand an existing facility in Arkansas;

(8) "Governing authority" means the quorum court of a county or the governing body of a municipality;

(9)(A) "High unemployment" means an unemployment rate equal to or in excess of one hundred fifty percent (150%) of the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the division, when the state's annual average unemployment rate is six percent (6%) or below.

(B) When the state's annual average unemployment rate is above six percent (6%), "high unemployment" means equal to or in excess of three percent (3%) above the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the division;

(10)(A)(i) "Net new full-time permanent employee" means a position or job which was created as a result of a project and which is filled by one (1) or more employees or contractual employees who were Arkansas taxpayers during the year in which the tax credits or incentives were earned.

(ii) The position or job held by the employee or employees must have been filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours per week.

(B) However, in order to qualify for the provisions of this subchapter, a contractual employee must be offered a benefits package comparable to a direct employee of the business seeking incentives under this subchapter;

(11) "Office sector" means control centers that influence the environment in which data processing, customer service, credit accounting, telemarketing, claims processing, and other administrative functions that act as production centers are performed;

(12) "Payroll factor" of a project plant or facility is a fraction, the numerator being the total amount paid in this state during the tax

period by the project plant or facility for compensation to employees working in the plant or facility and the denominator being the total compensation paid in the taxpayer's Arkansas operations during the tax period;

(13) "Program" means this subchapter;

(14)(A) "Project" means the construction or expansion of an eligible business as defined in subdivision (5) of this section in Arkansas costing at least five million dollars (\$5,000,000), including the cost of the land, buildings, and equipment used in the construction or expansion, which has been approved by the commission as a construction or expansion qualifying for tax benefits under this subchapter.

(B) The project cost shall include:

(i) All activities and costs associated with the construction of a new plant or facility;

(ii) All activities and costs associated with the expansion of an established plant or facility by adding to the building or production equipment or support infrastructure, or both; and

(iii) All activities and costs associated with the replacement of production or processing equipment or support infrastructure, or both.

(C) The project cost shall not include routine operating expenditures;

(15) "Property factor" of a project plant or facility is a fraction, the numerator being the average value of the taxpayer's real and tangible personal property owned or rented and used at the project plant or facility during the tax period and the denominator being the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period in Arkansas;

(16) "Regional headquarters" means the center of operations for a specific geographical area; and

(17) "Sales factor" of a project plant or facility is a fraction, the numerator being the total sales of the project plant or facility in this state during the tax period and the denominator being the total sales of the taxpayer's Arkansas operations during the tax period.

History. Acts 1995, No. 831, § 2; 1997, No. 540, § 87; 1997, No. 807, §§ 14, 15, 23; 1999, No. 575, § 1; 2001, No. 975, §§ 1-7; 2001, No. 1401, § 5; 2019, No. 910, §§ 377, 378.

Amendments. The 2019 amendment substituted "Division of Workforce Services" for "Department of Workforce Services" in (1)(A); and repealed (6).

15-4-1903. Powers and duties of the Arkansas Economic Development Commission.

The Arkansas Economic Development Commission shall administer the provisions of this subchapter and shall have the following powers and duties in addition to those mentioned in this subchapter and in other laws of this state:

(1) To promulgate rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to carry out the provisions of this subchapter;

(2)(A) To negotiate proposals on behalf of the state with prospective businesses which are considering locating a new facility or expanding an existing facility that would employ at least one hundred (100) net new full-time permanent employees and expend at least five million dollars (\$5,000,000) on the project.

(B)(i) For projects initiated after June 1, 2000, the commission is authorized to negotiate with a business a financial incentive plan granting an income tax credit based on total investment, without regard to how the project is financed, if it otherwise meets the qualifications of this act. The annual credit earned shall be based on the total investment divided by the term of the financial incentive plan.

(ii) The amount of credit that may be claimed each year will depend on the average hourly wage of the net new full-time permanent employees.

(iii) The amount of the income tax credit that may be claimed each year shall be negotiated in accordance with the following:

(a) When the average hourly wage, multiplied by forty (40), of the net new full-time permanent employee is between one hundred twenty-five percent (125%) and one hundred forty-nine percent (149%) of the lesser of the county or state annual average weekly wage per employee, the employer shall receive an annual income tax credit in the amount of fifty percent (50%) of the employer's state income tax liability;

(b) When the average hourly wage, multiplied by forty (40), of the net new full-time permanent employee is between one hundred fifty percent (150%) and one hundred seventy-four percent (174%) of the lesser of the county or state annual average weekly wage per employee, the employer shall receive an annual income tax credit in the amount of seventy-five percent (75%) of the employer's state income tax liability;

(c) When the average hourly wage, multiplied by forty (40), of the net new full-time permanent employee is one hundred seventy-five percent (175%) or more of the lesser of the county or state annual average weekly wage per employee, the employer shall receive an annual income tax credit in the amount of one hundred percent (100%) of the employer's state income tax liability; and

(d) If the average hourly wage, multiplied by forty (40), of the net new full-time permanent employee is less than one hundred twenty-five percent (125%) of the lesser of the county or state annual average weekly wage per employee, the employer shall receive no tax credit under this section.

(iv) If the project is located in a high-unemployment area, the Director of the Arkansas Economic Development Commission will consider all the factors of the project and negotiate with the business

an income tax credit in an amount up to one hundred percent (100%) of the state income tax liability;

(3)(A) To provide the Department of Finance and Administration with a copy of each financial incentive plan entered into by the commission with each of the qualifying businesses so that the department will know the maximum amount of income tax credit the qualified business may claim during the term of the agreement.

(B)(i) The financial incentive plan shall specify the annual amount of payments, including principal and interest, the business will make to the lender in connection with the project financing and attach copies of the business's loan documents that reflect the amount of the annual payments.

(ii) For projects initiated after June 1, 2000, and which qualify for the incentives authorized by this subchapter regardless of financing, the financial incentive plan shall specify the amount of tax credit to be earned annually, based on estimates of total project investments, which shall be limited to land, buildings, and equipment and divided by the term of the financial incentive plan; and

(4) To collect a one-time fee of two thousand five hundred dollars (\$2,500) for the commission's administrative and legal fees associated with the preparation of the financial incentive plan.

History. Acts 1995, No. 831, § 3; 1999, No. 575, § 2; 2001, No. 975, §§ 8-10; 2019, No. 315, § 1068; 2019, No. 910, § 379.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (1).

The 2019 amendment by No. 910 substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (2)(B)(iv).

15-4-1906. Refund of sales and use tax — Income tax credit.

(a)(1) The Revenue Division of the Department of Finance and Administration shall authorize a refund of sales and use taxes imposed by the state and a municipality or county if the municipality or county authorized the refund of its local tax on the purchases of the material used in the construction of a building or buildings or any addition or improvement thereon for housing any legitimate business enterprise and machinery and equipment to be located in or in connection with such a building.

(2) A refund shall not be authorized for routine operating expenditures.

(3)(A)(i) A refund shall not be authorized for the purchase of replacements of items previously purchased as part of a project under this subchapter unless the items previously purchased will not enable the project to function as originally intended.

(ii) In order to qualify for a refund under this subchapter, the replacement of an item previously purchased must be necessary for the implementation or completion of the project.

(B) However, a program participant may make changes in a project by amendment to the financial incentive plan entered into with the Arkansas Economic Development Commission.

(4)(A) All claims for sales and use tax refunds under this subchapter shall be filed with the division within three (3) years from the date of the qualified purchase or purchases.

(B) Claims filed after three (3) years from the date of the qualified purchase or purchases shall be disallowed.

(5)(A) The time limitation in this section for filing claims shall be tolled if:

(i) A program participant fails to pay sales or use tax on an item that was taxable; and

(ii) The applicable tax is subsequently assessed as a result of an audit by the division.

(B) All claims for sales and use tax refunds relating to an audited purchase shall be filed with the division within one (1) year after payment of the assessed tax or the date of a final administrative or judicial order, whichever is later.

(6) A program participant that files a claim for a sales or use tax refund relating to an audited purchase shall be entitled to a refund of interest paid on the amount of tax assessed on the audited purchase if a refund is approved for the purchase.

(b)(1) A sales and use tax refund as provided for in subsection (a) of this section shall be authorized, provided that:

(A) The company is an eligible business as defined in § 15-4-1902;

(B) The business and its contractors give preference and priority to Arkansas manufacturers, suppliers, contractors, and labor, except when it is not reasonably possible to do so without added expense, substantial inconvenience, or sacrifice in operational efficiency; and

(C)(i) The business:

(a) Files an endorsement resolution with the commission and the Department of Finance and Administration; and

(b) Files with the department a copy of the financial incentive plan the business entered into with the commission.

(ii) The endorsement resolution must be approved by the governing body of a municipality or county in whose jurisdiction the facility is located and must:

(a) Approve the specific entity's participation in the program; and

(b)(1) Specifically state whether the municipality or county authorizes the commission to refund local sales and use taxes to the entity under the program.

(2) A municipality or county can authorize the refund of all or part of a tax levied by it but cannot authorize the refund of any tax not levied by it.

(2)(A) The requisite number of net new full-time permanent employees must be employed by the business within twenty-four (24) months following the date the financial incentive plan was signed.

(B) In the event that the requisite number of net new full-time permanent employees cannot be employed within the twenty-four-

month period, the business can file a written application with the commission explaining why additional time is necessary. The business can be afforded up to twenty-four (24) more months to hire the requisite number of employees if the Director of the Arkansas Economic Development Commission and the Chief Fiscal Officer of the State determine that the need for additional time is due to:

(i) Unanticipated and unavoidable delay in the construction of a facility that must be completed before the employees can be hired;

(ii) The project as originally planned will require more than twenty-four (24) months to complete; or

(iii) A change in the business ownership or business structure due to a merger or acquisition.

(c)(1)(A) The division shall authorize an income tax credit based on the total investment in land, buildings, and equipment divided by the term of the financial incentive plan for each tax year.

(B)(i) The amount of income tax credit taken during any tax year shall not exceed the Arkansas income tax liability resulting from the project plant or facility.

(ii) The income tax liability of the project plant or facility shall be determined by adding the sales factor, the payroll factor, and the property factor of the plant or facility and dividing the sum by three (3) to arrive at the project apportionment percentage. The total Arkansas corporate income tax liability of the corporation shall be multiplied by the project apportionment percentage to arrive at the income tax liability arising from the project.

(iii) The income tax credit available may then be used to offset the income tax liability arising from the project as agreed upon in the financial incentive plan.

(2) However, if the entire credit cannot be used in the year earned, the remainder may be applied against the income tax for the succeeding nine (9) tax years or until the financial incentive plan expires, whichever occurs first.

(d) An income tax credit as provided for in subsection (c) of this section shall be authorized, provided that:

(1) The request for such a credit is accompanied by an endorsement resolution approved by the governing body of the appropriate municipality or county in whose jurisdiction the establishment is to be located and a copy of the financial incentive plan the business entered into with the commission;

(2) All of the net new full-time permanent employees are employed at the facility; and

(3) Benefits for the same project are not being claimed under the Arkansas Economic Development Incentive Act of 1993, § 15-4-1601 et seq.

(e)(1)(A) If the number of net new full-time permanent employees drops below one hundred (100) after twenty-four (24) months from the date the financial incentive plan is signed, all benefits under the financial incentive plan will be terminated unless the Chief Fiscal

Officer of the State approves a written request filed by the business explaining why the number of net new full-time permanent employees fell below one hundred (100).

(B) The Chief Fiscal Officer of the State may grant the business up to twenty-four (24) months to bring the number of net new full-time permanent employees back up to at least one hundred (100) and may approve the continuation of the benefits during that period.

(2) In the event that a business fails to notify the department that the number of employees has fallen below one hundred (100) or that the average hourly wage has fallen below the amount specified in the financial incentive plan, the business will be liable for the repayment of all benefits which were received by the business, plus penalty and interest.

(f)(1) Any business receiving benefits under this program shall be liable for the repayment of any benefits received, plus penalty and interest, if it does not comply with:

(A) The terms of the financial incentive plan;

(B) The requirements of this subchapter; or

(C) Any rule promulgated pursuant to this subchapter.

(2) The Chief Fiscal Officer of the State may bring any lawful action to recover any amount for which the recipient is liable.

History. Acts 1995, No. 831, § 6; 1997, No. 807, §§ 17, 18, 24; 1999, No. 575, § 4; 2001, No. 975, § 13; 2001, No. 1401, § 3; 2019, No. 315, § 1069; 2019, No. 910, § 380.

Amendments. The 2019 amendment by No. 315 deleted "or regulation" following "rule" in (f)(1)(C).

The 2019 amendment by No. 910 substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in the second sentence of the introductory language of (b)(2)(B).

15-4-1907. Verification.

(a) The Department of Finance and Administration shall have the authority to obtain whatever information necessary from the participating businesses and from the Division of Workforce Services to verify that businesses which have entered into financial incentive plans with the Arkansas Economic Development Commission are complying with the terms of the financial incentive plans and reporting accurate information concerning the number of employees and their payroll to the department.

(b) The department may promulgate rules and regulations necessary for the proper administration of the provisions of this subchapter.

History. Acts 1995, No. 831, § 7; 2019, No. 910, § 381.

Amendments. The 2019 amendment

substituted "Division of Workforce Services" for "Department of Workforce Services" in (a).

SUBCHAPTER 20 — DIGITAL PRODUCT AND MOTION PICTURE INDUSTRY DEVELOPMENT ACT OF 2009

SECTION.

- 15-4-2003. Definitions.
- 15-4-2004. Requirement for registration.
- 15-4-2005. Production tax incentive.
- 15-4-2006. Postproduction tax incentives.
- 15-4-2007. Application for rebate.
- 15-4-2008. Disbursement of rebate.

SECTION.

- 15-4-2009. Penalties.
- 15-4-2011. Sunset.
- 15-4-2012. Tax credit.
- 15-4-2013. Transfer of tax credit.
- 15-4-2014. Supplemental tax credit.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-4-2003. Definitions.

As used in this subchapter:

(1) “Application for a rebate or a tax credit” means the document required by the Film Office to begin the process for obtaining a tax incentive under this subchapter;

(2)(A) “Below-the-line employees” means employees involved with the production of a motion picture production, including without limitation:

- (i) Casting assistants;
- (ii) Costume design;
- (iii) Gaffers;
- (iv) Grips;
- (v) Location managers;
- (vi) Production assistants;
- (vii) Set construction staff; and
- (viii) Set design staff.

(B) “Below-the-line employees” does not include directors and producers;

(3)(A) “Film and digital product” means video images or other visual media entertainment content.

(B) “Film and digital product” includes without limitation:

- (i) Motion pictures;
- (ii) Documentaries;

(iii) Long-form programs, specials, miniseries, series, music videos, and television programming;

(iv) Interactive television;

(v) Interactive games;

(vi) Video games;

(vii) Commercials;

(viii) Digital media created primarily for distribution or exhibition to the general public; and

(ix) A trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in either a product or a qualified production through any means and media in a digital media format, film, or videotape if the program meets all the underlying criteria of a qualified production;

(4) "Film Office" means the division of the Arkansas Economic Development Commission charged with the responsibility of promoting and assisting the digital content industry in Arkansas in order to enhance Arkansas as a land of opportunity for digital and motion picture filmmaking;

(5) "Financial institution" means any bank or savings and loan association in the state that carries Federal Deposit Insurance Corporation insurance;

(6)(A) "Highly compensated individual" means an individual who directly or indirectly receives compensation in excess of five hundred thousand dollars (\$500,000) for personal services with respect to a single production.

(B) An individual receives compensation indirectly when a production company pays a personal service company or an employee-leasing company that pays the individual;

(7)(A) "Postproduction" means a final stage in the production of digital content occurring after the action has been filmed or videotaped and involves editing and the addition of soundtracks.

(B) "Postproduction" includes without limitation editing, music, soundtracks, special effects, and credits;

(8) "Postproduction costs" means all expenditures associated with the postproduction phase of a state-certified production within the state;

(9)(A) "Production" means the process of producing a type of entertainment content and includes film and digital product.

(B) "Production" shall not include:

(i) An ongoing program created primarily as news, weather, or financial market reports;

(ii) A production containing any material or performance that is obscene;

(iii) A production deemed an infomercial; or

(iv) Sexually explicit productions as defined in 18 U.S.C. § 2257, as it existed on January 1, 2009;

(10) "Production company" means a corporation, partnership, limited liability company, or other business entity engaged in the business

of producing qualified productions and qualified by the Secretary of State to engage in business in the state;

(11)(A) "Qualified production costs" means costs associated with the development, preproduction, production, or postproduction of a qualified production within the state.

(B) "Qualified production costs" includes costs associated with original music compositions produced by an Arkansas resident to be used as incidental music, the score, or the soundtrack in film or video games.

(C) "Qualified production costs" includes the cost to option or purchase intellectual property, including without limitation books, scripts, music, or trademarks relating to the development or purchase of a script, screenplay, or format if:

(i) The intellectual property was produced primarily in Arkansas or the creator of the intellectual property is a resident of Arkansas;

(ii) At least seventy-five percent (75%) of the subsequent film or digital content is produced in Arkansas; and

(iii) The production expenses or costs for the optioning or purchase are less than twenty-five percent (25%) of the production expenses or costs incurred in Arkansas. The expenses or costs include all expenditures associated with the optioning or purchase of intellectual property, including option money, agent fees, and attorney's fees relating to the transaction but do not include deferrals, deferments, royalties, profit participation, or recourse or nonrecourse loans that the eligible production company may negotiate in order to obtain the rights to the intellectual property.

(D) "Qualified production costs" does not include:

(i) The optioning or purchase of intellectual property that does not comply with the provisions of subdivision (9)(A) of this section;

(ii) Media buys, promotional events, or gifts or public relations associated with the promotion or marketing of any qualified production;

(iii) Deferred, leveraged, or profit participation costs relating to any and all personnel associated with any and all aspects of the production, including without limitation producer fees, director fees, talent fees, and writer fees; and

(iv) Amounts paid to persons or businesses as a result of their participation in profits from the exploitation of the qualified production;

(12) "Resident" means natural persons and includes, for the purpose of determining eligibility for the tax credits provided by this subchapter, a person domiciled in Arkansas and any other person who maintains a permanent residence within the state and spends in the aggregate at least six (6) months of the taxable year within the state;

(13) "State-certified production" means a qualified production produced by an eligible production company that is:

(A) In compliance with rules promulgated under this subchapter;

(B) Authorized by the Film Office to conduct business in this state; and

(C) Approved by the Director of the Arkansas Economic Development Commission as qualifying for a discretionary production tax incentive under this subchapter;

(14) "Tax incentive" means a rebate under § 15-4-2008 or a tax credit under § 15-4-2012;

(15) "Veteran" means an individual who:

(A) Was honorably discharged from a tour of active duty, other than active duty for training only, with the United States Armed Forces; or

(B) Has served honorably in the National Guard or reserve forces of the United States Armed Forces for at least six (6) years, regardless of whether the individual has been discharged; and

(16) "Veteran-owned small business" means a business:

(A) With profits of less than one million dollars (\$1,000,000);

(B) In which at least one (1) veteran owns more than fifty percent (50%) of the business; and

(C) That has its principal place of business or its headquarters in Arkansas.

History. Acts 1997, No. 919, § 3; 2009, No. 816, § 1; 2013, No. 496, §§ 1-6; 2019, No. 367, § 1; 2021, No. 474, § 1; 2021, No. 797, § 1.

Amendments. The 2019 amendment, in (13)(C), substituted "Director of the Arkansas Economic Development Commission" for "Film Office", and inserted "discretionary".

The 2021 amendment by No. 474 substituted "rules promulgated under" for "established rules to" in (13).

The 2021 amendment by No. 797, in (1), substituted "a rebate or a tax credit" for "rebate" and substituted "tax incentive" for "a rebate"; substituted "tax credits" for "rebate incentive" in (12); substituted "tax incentive" for "rebate" in (13)(C); and added (14), (15), and (16).

15-4-2004. Requirement for registration.

(a) A production company that plans to operate within the borders of Arkansas shall register with the Film Office before beginning operations.

(b)(1) Upon registration and signing a financial incentive agreement, the production company shall include the name of Arkansas in the credits.

(2) The Director of the Arkansas Economic Development Commission may waive this requirement if he or she determines that the state should not be acknowledged.

History. Acts 1997, No. 919, § 4; 2009, No. 816, § 1; 2019, No. 910, § 382.

Amendments. The 2019 amendment substituted "Director of the Arkansas Eco-

nomic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (b)(2).

15-4-2005. Production tax incentive.

(a)(1) The Director of the Arkansas Economic Development Commission may offer to a production company that has submitted an approved application under § 15-4-2007 a tax incentive of twenty percent (20%) on all qualified production costs in connection with the production of a state-certified film project.

(2) If the director approves a project for a tax incentive under this section, an additional rebate or tax credit of ten percent (10%) shall be granted for the payroll of below-the-line employees who are full-time residents of Arkansas.

(b) To qualify for this tax incentive, a production company shall spend at least two hundred thousand dollars (\$200,000) within a six-month period in connection with the production of one (1) project.

(c) A state-certified production shall be granted an additional tax incentive of ten percent (10%) for:

(1) The payroll of below-the-line employees who are:

(A) Full-time residents of Arkansas; or

(B) Veterans;

(2) Expenditures paid to a veteran-owned small business for qualified production costs with the state-certified production.

(d) A production tax incentive shall not be processed until the production company has met in full all obligations to each Arkansas institution and vendor owed for products or services in the state.

(e) The maximum total tax incentives that shall be claimed for an expenditure under this section is thirty percent (30%) of the expenditure.

History. Acts 1997, No. 919, § 5; 2009, No. 816, § 1; 2013, No. 496, § 7; 2019, No. 367, § 2; 2021, No. 797, § 2.

Amendments. The 2019 amendment rewrote (a).

The 2021 amendment substituted "tax incentive" for "rebate" throughout the sec-

tion; in (a)(1), inserted "approved" and deleted "up to" preceding "twenty percent"; inserted "or tax credit" in (a)(2); inserted (c) and redesignated former (c) as (d); and added (e).

15-4-2006. Postproduction tax incentives.

(a)(1) The Director of the Arkansas Economic Development Commission shall offer a tax credit or a rebate of twenty percent (20%) to a qualifying production company that has submitted an approved application under § 15-4-2007 for a tax incentive on all qualified production costs in connection with the postproduction of an approved state-certified film project.

(2) A state-certified production shall be granted an additional tax incentive of ten percent (10%) for:

(A) The payroll of below-the-line employees who are:

(i) Full-time residents of Arkansas; or

(ii) Veterans; or

(B) Expenditures paid to a veteran-owned business for qualified production costs with the state-certified production.

(b) To qualify for a tax incentive, a production company shall spend at least fifty thousand dollars (\$50,000) within a six-month period in connection with the production of one (1) project.

(c) A postproduction tax incentive shall not be processed until the production company has met in full all obligations to each Arkansas institution and vendor owed for products or services in the state.

(d) The maximum total tax incentives that may be claimed for a qualified expenditure under this section is thirty percent (30%) of the qualified expenditure.

History. Acts 2009, No. 816, § 1; 2013, No. 496, § 7; 2019, No. 367, § 3; 2021, No. 797, § 3.

A.C.R.C. Notes. Acts 2021, No. 797, § 3, omitted the word “may” before “offer” when setting out subdivision (a)(1) of this section.

Amendments. The 2019 amendment rewrote (a)(1); and added “If the executive director approves a project for a rebate under this section” in (a)(2).

The 2021 amendment substituted “tax incentive” for “rebate” throughout the section; in (a)(1), substituted “shall offer a tax credit or a rebate of twenty percent (20%)” for “offer”, twice inserted “approved”, and substituted “for a tax incentive” for “a rebate of up to twenty percent (20%)”; rewrote (a)(2); substituted “shall” for “must” in (b); and added (d).

15-4-2007. Application for rebate.

(a)(1) To apply for the tax incentives provided under this subchapter, a production company shall submit an application and provide an estimate of total expenditures to be made in Arkansas in connection with the production.

(2) The application and estimate of expenditures required under subdivision (a)(1) of this section shall be filed with the Arkansas Economic Development Commission and approved by the Director of the Arkansas Economic Development Commission as eligible for the tax incentive provided by this subchapter before the commencement of production in Arkansas.

(b)(1) If an application for a tax incentive is approved under subsection (a) of this section, the production company and the director shall sign a financial incentive agreement.

(2)(A) The financial incentive agreement shall define the incentives to be received and the start and end date of the project.

(B) The financial incentive agreement shall include the:

(i) Effective date of the financial incentive agreement;

(ii) Term of the financial incentive agreement, which shall be calculated from the date the financial incentive agreement is signed by the production company and the director;

(iii) Incentive for which the production company may qualify;

(iv) Investment threshold requirements necessary to qualify for eligibility;

(v) Production company’s responsibilities for certifying eligibility requirements;

(vi) Production company's responsibilities for failure to meet or maintain eligibility requirements; and

(vii) Whether the tax incentive in the agreement is for a rebate under § 15-4-2008 or a tax credit under § 15-4-2012.

(c) At the time the production company registers and provides the estimate of expenditures to the commission, the production company also shall designate a member or representative to work with the commission and the Film Office on the reporting of expenditures and other information necessary to qualify for the tax incentives.

(d) No later than one hundred eighty (180) days after the last production expenses or costs are incurred in the production of a qualified production, the production company shall:

(1) Apply to the commission for a production tax-incentive certificate; and

(2) Provide a final expenditure report that includes the amount of the production company's production expenses or costs.

(e)(1) Production companies are encouraged to make payments for production and postproduction expenses from a checking account from an Arkansas financial institution.

(2) Direct cash payments by a production company to Arkansas vendors, businesses, or citizens hired as cast or crew that are accompanied by receipts may be allowed if the sum of the cash payments does not exceed forty percent (40%) of the total verifiable expenditures.

(3) The following are eligible expenditures:

(A) Per diem expenditures by the cast or crew for lodging when accompanied by receipts; and

(B) Fringe contributions being paid for work performed in this state, including:

(i) Health benefits;

(ii) Pension contributions;

(iii) Welfare contributions;

(iv) Stipends; and

(v) Living allowances.

(f) Expenditure reports also shall include information as required by the Revenue Division of the Department of Finance and Administration to ensure compliance with this subchapter.

(g) Payments for salaries or wages shall be eligible for the tax incentive if they are reported to the division and are subject to state income taxes.

(h)(1) If approved by the director, the employment tax incentive under subsection (g) of this section also entitles a state-certified production to an additional tax incentive for employing full-time residents of Arkansas.

(2) The employment tax incentive under subsection (g) of this section authorizes an additional credit of ten percent (10%) for the aggregate payroll of salaries and wages to Arkansas residents who are below-the-line employees of the state-certified production.

(3) The veteran hire tax credit under §§ 15-4-2005 and 15-4-2006 also entitles a state-certified production to receive an additional tax credit for employing veterans.

(i) If approved by the director, the tax incentives under subsections (g) and (h) of this section may include the first five hundred thousand dollars (\$500,000) of a highly compensated individual's salary.

(j) Payments for penalties or fines, payments to nonprofit organizations, and payments to federal and state entities that do not pay state taxes are not eligible.

(k) If a production company hires a payroll service company to handle the payroll of a production, the payroll payments otherwise allowable may be allowed as eligible expenditures if all eligible income payments to employees and independent contractors done through the payroll service are subject to Arkansas state income taxes.

(l)(1)(A) Within two (2) weeks after principal photography begins, the production company shall begin filing weekly expenditure reports.

(B) Failure to file weekly expenditure reports may result in a delay in the disbursement of the tax incentives provided in §§ 15-4-2005 and 15-4-2006.

(2) The weekly expenditure report shall be filed in accordance with but shall not be limited to the following:

(A) Direct cash payments by the production company to Arkansas vendors, businesses, or citizens hired as cast or crew that are accompanied by receipts shall be allowed if the sum of those cash payments does not exceed forty percent (40%) of the total verifiable expenditures;

(B) Per diem expenditures by cast or crew, or both, for lodging, when accompanied by receipts, shall be allowed as eligible expenditures; and

(C) Expenditure reports shall include without limitation:

(i) Check identification number;

(ii) Date of payment;

(iii) Name of payee;

(iv) Address of payee;

(v) Amount paid; and

(vi) Other information the division deems necessary to ensure compliance with this subsection.

(m) When a production company hires a food catering service company that is located outside the state, payments otherwise allowable that are made by the out-of-state food catering service to food businesses located in Arkansas shall be allowed as eligible expenditures.

(n)(1) Upon completion of filming or production, or both, in Arkansas, the production company shall file an application for the tax incentive allowed under this subchapter.

(2) The application for a tax incentive shall include a proof of performance expenditure list that provides the total amount of expenditures that were made in the state in connection with the filming or

production, or both, of a film and digital product that complies with this subchapter.

(3) When filing the application under subdivision (n)(1) of this section, the production company shall provide a final expenditure report that includes the amount of the production company's production expenses or costs.

History. Acts 1997, No. 919, § 6; 2009, No. 816, § 1; 2013 No. 496, § 7; 2019, No. 367, §§ 4-7; 2019, No. 910, § 383; 2021, No. 474, § 2; 2021, No. 797, §§ 4-7.

A.C.R.C. Notes. Pursuant to Acts 2021, No. 474, § 5, and § 1-2-207(b), the amendments to subdivisions (a)(1), (a)(2), and (b)(1) of this section by Acts 2021, No. 474, § 2, are superseded by Acts 2021, No. 797, § 4.

Acts 2021, No. 474, § 5, provided: "CONSTRUCTION AND LEGISLATIVE INTENT. "It is the intent of the General Assembly that:

"(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-Third General Assembly;

"(2) To the extent that a conflict exists between an act of the regular session of the Ninety-Third General Assembly and this act:

"(A) The act of the regular session of the Ninety-Third General Assembly shall be treated as a subsequent act passed by the General Assembly for the purposes of:

"(i) Giving the act of the regular session of the Ninety-Third General Assembly its full force and effect; and

"(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

"(B) Section 1-2-107 shall not apply; and

"(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987."

Amendments. The 2019 amendment by No. 367 substituted "apply" for "qualify" in (a)(1); in (a)(2), inserted "required under subdivision (a)(1) of this section", and inserted "by the Executive

Director of the Arkansas Economic Development Commission"; in the introductory language of (b)(1), substituted "If an application for a rebate is approved under subsection (a) of this section, the production company and the executive director" for "After each production company submits an application, the commission", and deleted "with each eligible production company that qualifies under this subchapter and is approved by the commission" following "agreement" at the end; substituted "incentives" for "benefits" in the introductory language of (b)(2)(A); inserted "financial incentive" in (b)(2)(B)(i) and (ii); substituted "executive director" for "Executive Director of the Arkansas Economic Development Commission" in (b)(2)(A)(ii); substituted "may" for "shall" in (e)(2), (i), and (k); added "If approved by the executive director" in the introductory language of (h)(1) and (i); inserted "allowed as" in (l)(2)(B); substituted "commission" for "Film Office" in (n)(3); and made stylistic changes.

The 2019 amendment by No. 910 substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (b)(2)(B)(ii).

The 2021 amendment by No. 474 inserted "for rebate" in (a)(1) and (a)(2); and inserted the second occurrence of "financial incentive" in (b)(2)(B)(ii).

The 2021 amendment by No. 797 substituted "tax incentive" for "rebate" throughout the section; added (b)(2)(B)(vii); inserted "under subsection (g) of this section" in (h)(1) and (h)(2); added (h)(3); substituted "tax incentives under subsections (g) and (h) of this section" for "employment rebate" in (i); and rewrote (n)(3).

15-4-2008. Disbursement of rebate.

(a) The Revenue Division of the Department of Finance and Administration shall upon receipt of an application for a rebate, including a proof of performance expenditure report from the Film Office:

(1) Calculate the total expenditures of the relevant production company for which there are documented receipts for funds expended in the state;

(2) Calculate the incentive benefit to which the applicant is entitled, subject to any conditions of the approved financial incentive agreement; and

(3) Provide certification to the Secretary of the Department of Finance and Administration specifying the amount to be remitted to the production company within one hundred twenty (120) days after the final expenditure report has been submitted.

(b) The secretary, within ten (10) working days after the receipt of the certification from the division, shall remit the rebate to:

(1) The production company; or

(2) At the option of the production company, the full amount or a specified amount noted by the production company to the:

(A) National Film Preservation Foundation;

(B) Motion Picture Retirement Fund; or

(C) Digital Product and Motion Picture Office Fund.

(c)(1) The amount of the rebate is limited to the amount specified in the approved financial incentive agreement.

(2) The rebate shall be awarded on a first-come, first-served basis.

(3) Rebates to be awarded from the Digital Product and Motion Picture Office Fund may be payable from any source of funds allocated for the rebates.

History. Acts 1997, No. 919, § 7; 2009, No. 816, § 1; 2013, No. 496, § 7; 2019, No. 367, §§ 8, 9; 2019, No. 910, §§ 3398, 3399; 2021, No. 474, § 3; 2021, No. 797, § 8.

A.C.R.C. Notes. Pursuant to Acts 2021, No. 474, § 5, and § 1-2-207(b), the amendment to subsection (a) of this section by Acts 2021, No. 474, § 3, is superseded by Acts 2021, No. 797, § 8.

Acts 2021, No. 474, § 5, provided: **"CONSTRUCTION AND LEGISLATIVE INTENT.** "It is the intent of the General Assembly that:

"(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-Third General Assembly;

"(2) To the extent that a conflict exists between an act of the regular session of the Ninety-Third General Assembly and this act:

"(A) The act of the regular session of the Ninety-Third General Assembly shall be treated as a subsequent act passed by the General Assembly for the purposes of:

"(i) Giving the act of the regular session of the Ninety-Third General Assembly its full force and effect; and

"(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

"(B) Section 1-2-107 shall not apply; and

"(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987."

Amendments. The 2019 amendment by No. 367 inserted "subject to any conditions of the approved financial incentive agreement" in (a)(2); and rewrote (c)(1).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a)(3); and substituted "secretary" for "director" in (b).

The 2021 amendment by No. 474 deleted "a" preceding "rebate" in the introductory paragraph in (a).

The 2021 amendment by No. 797 substituted "rebate" for "rebate incentive" in the section heading.

15-4-2009. Penalties.

(a) A production company that intends to apply for the rebate and does not register as required by § 15-4-2004 may be enjoined from engaging in production activities in the state by any court of competent jurisdiction until the production company has registered.

(b) A production company that intends to apply for the rebate incentives and fails to comply with this subchapter may be denied future participation in this incentive program and shall be subject to penalty in accordance with applicable state or federal law.

History. Acts 1997, No. 919, § 8; 2009, No. 816, § 1; 2021, No. 797, § 9.

Amendments. The 2021 amendment made no changes to this section.

15-4-2011. Sunset.

The opportunity to apply for a tax incentive provided by this subchapter expires on June 30, 2032.

History. Acts 1997, No. 919, § 11; 2009, No. 816, § 1; 2019, No. 367, § 10; 2021, No. 797, § 10.

The 2021 amendment, in the introductory language, substituted “to apply for a tax incentive” for “for a rebate”, made a stylistic change, and substituted “June 20, 2032” for “June 1, 2029”.

Amendments. The 2019 amendment substituted “2029” for “2019”.

15-4-2012. Tax credit.

(a)(1) After receiving both an application for a tax credit under this subchapter and a proof of performance expenditure report from the Film Office, the Revenue Division of the Department of Finance and Administration shall:

(A) Calculate the total expenditures of the relevant production company for which there are documented receipts for funds expended in the state;

(B) Calculate the amount of the tax credits to which the applicant is entitled, subject to any conditions of the approved financial incentive agreement; and

(C) Within one hundred twenty (120) days after receiving the expenditure report from the Film Office, certify to the Secretary of the Department of Finance and Administration the amount of the tax credit that may be claimed by the production company.

(2) The secretary, within ten (10) business days after the receipt of the certification from the division, shall instruct the division to issue the tax credit in the amount certified.

(3) Tax credits under this subchapter:

(A) Shall be issued promptly after the division completes its review under subdivision (a)(1) of this section;

(B) Are allowed as a credit against the income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq.;

(C) Are not refundable; and

(D) May be carried forward in part or in whole for five (5) consecutive taxable years to apply against the taxpayer's income taxes due.

(b)(1) The Arkansas Economic Development Commission shall not approve applications for tax credits under this subchapter for more than four million dollars (\$4,000,000) in any one (1) fiscal year.

(2) The division shall not issue tax credits in excess of the amount approved by the commission in the financial incentive agreement.

History. Acts 2021, No. 797, § 11.

15-4-2013. Transfer of tax credit.

(a)(1) An owner of a tax credit under this subchapter may transfer, sell, or assign some or all of the amount of the tax credit certified under § 15-4-2012.

(2) A subsequent holder of some or all the amount of the tax credit may transfer, sell, or assign some or all of the remaining tax credit.

(b) A transferee from an original, approved applicant under this subchapter may use the tax credit under this subchapter only to the extent the tax credit is still available to and has not previously been used by the transferor.

(c) If a transferee of a tax credit under this subchapter seeks to use the tax credit, the transferee shall obtain and attach to the transferee's income tax return for the years the tax credit is claimed a certified statement from the transferor stating the:

(1) Name and address of the original purchaser and all transferees;

(2) Tax identification number of all persons entitled to any portion of the original tax credit;

(3) Original date the tax credit was approved;

(4) Original amount of the tax credit;

(5) Amount of the tax credit that was transferred; and

(6) Remaining amount of the tax credit that is available for use by the transferee.

(d) The amount of the tax credit received by the transferee may be carried forward in part or in whole for five (5) consecutive taxable years, beginning from the taxable year in which the tax credit originated, to apply against the taxpayer's income taxes due.

(e) If any subsequent audits or adjustments are made to a tax credit issued under this subchapter that reduce the amount of the tax credit, then the transferor that originally received the tax credit under this subchapter shall refund the difference between the original amount and the reduced amount to the Department of Finance and Administration.

(f) An owner or holder that assigns some or all of a tax credit under this section shall perfect the transfer by notifying the department in writing within thirty (30) calendar days following the effective date of the transfer and shall provide any information the department requires to administer and carry out this subchapter and to ensure proper tracking of the ownership of the unused tax credit.

History. Acts 2021, No. 797, § 11.

15-4-2014. Supplemental tax credit.

(a) If the Director of the Arkansas Economic Development Commission receives an application for tax credits under this subchapter that would exceed the amount of tax credits remaining to be issued in a fiscal year under § 15-4-2012, the director may request that the Secretary of the Department of Commerce and Secretary of the Department of Finance and Administration approve supplemental credits to be issued in excess of the amount in § 15-4-2012.

(b) Supplemental credits under this section shall not exceed the amount in the Arkansas Supplemental Digital Product and Motion Picture Industry Development Trust Fund as certified by the Secretary of the Department of Finance and Administration.

(c)(1) The Secretary of the Department of Commerce and the Secretary of the Department of Finance and Administration may jointly approve supplemental credits under this section if a cost-benefit analysis demonstrates that the issuance of the supplemental credits is in the prudent interests of the state.

(2) The cost-benefit analysis conducted under subdivision (c)(1) of this section shall be:

(A) Performed by the Director of the Arkansas Economic Development Commission or his or her designee; and

(B) Confirmed by the Secretary of the Department of Finance and Administration or his or her designee.

(d) Supplemental credits issued under this section shall be considered tax credits for the purposes of §§ 15-4-1212 and 15-4-1213.

History. Acts 2021, No. 797, § 11.

SUBCHAPTER 23 — ARKANSAS PUBLIC ROADS IMPROVEMENTS CREDIT ACT

SECTION.

15-4-2303. Definitions.

15-4-2304. Approval of projects.

15-4-2305. Public Roads Incentive Fund.

15-4-2306. Tax credit.

SECTION.

15-4-2307. Powers and duties of the Arkansas Economic Development Commission.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding

the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health,

and safety shall become effective on July 1, 2019.”

Acts 2021, No. 628, § 2: effective for tax years beginning on or after Jan. 1, 2020.

15-4-2303. Definitions.

As used in this subchapter:

(1) “Capital improvements” means capital improvements for public roads;

(2) “Commission” means the Arkansas Economic Development Commission;

(3) “Contribution” means a contribution in aid of construction of a public roads project made by a taxpayer to the Public Roads Incentive Fund;

(4) “Council” means the Arkansas Economic Development Council;

(5) “County” means any county in the State of Arkansas;

(6) [Repealed.]

(7) “Fund” means the Public Roads Incentive Fund;

(8) “Governing authority” means the quorum court of a county, the governing body of a municipality, and the State Highway Commission;

(9) “Municipality” means any city or incorporated town in the State of Arkansas;

(10) “Project” means all, any combination, or any part of the capital improvements for public roads which are authorized by a governing authority and approved by the Director of the Arkansas Economic Development Commission;

(11) “Public roads” means roads maintained by a governing authority; and

(12) “Taxpayer” includes any individual, fiduciary, or corporation subject to Arkansas state income tax.

History. Acts 1999, No. 1347, § 1; the Arkansas Economic Development Commission” for “executive director” in 2019, No. 910, §§ 384, 385.

Amendments. The 2019 amendment repealed (6); and substituted “Director of

(10).

15-4-2304. Approval of projects.

Governing authorities may apply to the Director of the Arkansas Economic Development Commission for funding assistance for capital improvement projects for public roads as provided by this subchapter. The director is authorized to approve capital improvements for funding assistance upon a finding that a project is in the public interest.

History. Acts 1999, No. 1347, § 1; 2019, No. 910, § 386.

Amendments. The 2019 amendment substituted “Director of the Arkansas Economic Development Commission” for “Ex-

ecutive Director of the Arkansas Economic Development Commission” in the first sentence; and deleted “executive” preceding “director” in the second sentence.

15-4-2305. Public Roads Incentive Fund.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Public Roads Incentive Fund" of the Arkansas Economic Development Council.

(b) The fund shall consist of contributions made by taxpayers for public roads projects approved by the Director of the Arkansas Economic Development Commission and any other funds as are designated or deposited to the fund by law.

(c)(1) A separate account shall be established for each project, and contributions for a project shall be applied to provide funding assistance for such a project.

(2) Any contributions which remain in the fund when a project is completed or terminated shall be held and applied to other public roads projects in such manner as the director shall direct.

History. Acts 1999, No. 1347, § 1; 2019, No. 910, §§ 387, 388.

Amendments. The 2019 amendment substituted "Director of the Arkansas Economic Development Commission" for "Ex-

ecutive Director of the Arkansas Economic Development Commission" in (b); and deleted "executive" preceding "director" in (c)(2).

15-4-2306. Tax credit.

(a) A taxpayer shall be entitled to a credit against any Arkansas income tax liability which may be imposed on the taxpayer for any tax year commencing on or after January 1, 1999, for contributions transmitted to the Treasurer of State pursuant to this subchapter.

(b) The credit shall be determined in the following manner:

(1) The credit shall be calculated as thirty-three percent (33%) of the taxpayer's contribution;

(2) In any one (1) tax year, the credit allowed by this section shall offset up to one hundred percent (100%) of the net Arkansas state income tax liability of the taxpayer; and

(3) Any credit in excess of the amount allowed by subdivision (b)(2) of this section for any one (1) tax year may be carried forward and applied against any Arkansas state income tax liability for the next-succeeding tax year and annually thereafter for a total period of ten (10) years next succeeding the year in which the credit arose, subject to the provisions of subdivision (b)(2) of this section or until the credit is exhausted, whichever occurs first.

History. Acts 1999, No. 1347, § 1; 2021, No. 628, § 1.

Amendments. The 2021 amendment substituted "shall be calculated as" for "is limited to an amount not to exceed" in (b)(1); in (b)(2), substituted "offset up to one hundred percent (100%)" for "not exceed fifty percent (50%)" and deleted "af-

ter all other credits and reductions in tax have been calculated" at the end of the sentence; and substituted "ten (10) years" for "three (3) years" in (b)(3).

Effective Dates. Acts 2021, No. 628, § 2: effective for tax years beginning on or after Jan. 1, 2020.

15-4-2307. Powers and duties of the Arkansas Economic Development Commission.

The Arkansas Economic Development Commission shall administer the provisions of this subchapter and shall have the following powers and duties, in addition to those mentioned in this subchapter and in other laws of this state:

- (1) To monitor the implementation and operation of this subchapter and to conduct a continuing evaluation of the progress made;
- (2) To assist the governing authority in obtaining assistance from any other department of state government;
- (3) To submit an annual written report evaluating the effectiveness of the program and presenting any suggestions for improving the program, to be submitted to the Governor no later than March 1 of each year; and
- (4) To promulgate rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to carry out the provisions of this subchapter.

History. Acts 1999, No. 1347, § 1; deleted “and regulations” following “rules”
2019, No. 315, § 1070. in (4).

Amendments. The 2019 amendment

SUBCHAPTER 24 — STEEL MANUFACTURERS’ TAX EXEMPTIONS AND CREDITS

SECTION.

15-4-2406. Refund of recycling tax credit.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-4-2406. Refund of recycling tax credit.

- (a)(1) In the case of a qualified manufacturer of steel as described in § 15-4-2405(a), the provisions of § 26-51-506(f) shall not apply.
- (2) However, the qualified manufacturer of steel shall refund the amount of the tax credit provided by subsection (b) of this section if within three (3) years of the taxable year in which the credit originated:

(A)(i) The waste reduction, reuse, or recycling equipment is removed from Arkansas, disposed of, or transferred to another person, or the qualified manufacturer of steel otherwise ceases to use the required materials or operate in accordance with § 26-51-506.

(ii) However, reorganization transactions, changes of ownership and control, and sales and transfers of waste reduction, reuse, or recycling equipment among affiliates which do not constitute sales or transfers to a third-party purchaser shall not be considered disposals, transfers, or cessations of use for purposes of § 26-51-506; or

(B) The Director of the Division of Environmental Quality finds that the qualified manufacturer of steel has operated the waste reduction, reuse, or recycling equipment in a manner which demonstrates a pattern of intentional failure to comply with final administrative or judicial orders which clearly indicates a disregard for environmental regulation.

(b) If the provisions of subsection (a) of this section apply, the qualified manufacturer of steel shall refund the amount of the tax credit which was deducted from income tax liability which exceeds the following amounts:

(1) Within the first year, zero dollars (\$0.00);

(2) Within the second year, an amount equal to thirty-three percent (33%) of the amount of credit allowed; and

(3) Within the third year, an amount equal to sixty-seven percent (67%) of the credit allowed.

(c) Any refund required by subdivision (a)(2)(A) of this section shall apply only to the credit given for the particular waste reduction, reuse, or recycling equipment to which subdivision (a)(2)(A) of this section applies.

(d) Any taxpayer who is required to refund part of a credit pursuant to this section shall no longer be eligible to carry forward any amount of that credit which had not been used as of the date the refund is required.

(e) Any person or legal entity aggrieved by a decision of the director under this section may appeal to the Arkansas Pollution Control and Ecology Commission through administrative procedures adopted by the commission and to the courts in the manner provided in §§ 8-4-222 — 8-4-229.

History. Acts 2001, No. 541, § 6; 2019, No. 910, § 3042.

Amendments. The 2019 amendment

substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality" in (a)(2)(B).

SUBCHAPTER 25 — SMALL BUSINESS LOAN COLLABORATION PROGRAM

SECTION.

15-4-2501. Definitions.

15-4-2504. Supporting documents.

SECTION.

15-4-2506. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-4-2501. Definitions.

As used in this subchapter:

- (1) “Commission” means the Arkansas Economic Development Commission;
- (2) “Community lender” means any organization that is involved in making loans to small businesses within this state;
- (3) “Council” means the Arkansas Economic Development Council;
- (4) [Repealed.]
- (5)(A) “High unemployment” means an unemployment rate equal to or greater than one hundred fifty percent (150%) of the state’s average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the Division of Workforce Services, when the state’s annual average unemployment is six percent (6%) or lower.
(B) However, when the state’s unemployment rate is above six percent (6%), “high unemployment” means unemployment equal to or greater than three percent (3%) above the state’s average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the division;
- (6) “Small business” means business enterprises with fewer than fifty (50) full-time employees and less than one million dollars (\$1,000,000) in annual gross sales or receipts; and
- (7) “Small-business person” means an individual, firm, partnership, limited liability company, corporation, or any other business entity in any form that owns and operates a small business.

History. Acts 2001, No. 913, § 2; 2005, No. 892, § 1; 2019, No. 910, §§ 389, 390.

Amendments. The 2019 amendment

repealed (4); and substituted “Division of Workforce Services” for “Department of Workforce Services” in (5)(A).

15-4-2504. Supporting documents.

Each community lender requesting a participating loan shall submit to the Arkansas Economic Development Commission an application, supporting documents, and instruments as may be required by the rules promulgated by the commission.

History. Acts 2001, No. 913, § 5; 2019, No. 315, § 1071.

Amendments. The 2019 amendment substituted “rules” for “regulations”.

15-4-2506. Rules.

The Arkansas Economic Development Commission shall promulgate rules to implement this subchapter.

History. Acts 2001, No. 913, § 7; 2019, No. 315, § 1072.

substituted “Rules” for “Regulations” in the section heading and substituted “rules” for “regulations” in the text.

Amendments. The 2019 amendment

SUBCHAPTER 27 — CONSOLIDATED INCENTIVE ACT OF 2003

SECTION.

- 15-4-2703. Definitions.
- 15-4-2704. Tier system.
- 15-4-2705. Job-creation tax credit.
- 15-4-2706. Investment tax incentives.
- 15-4-2707. Economic Development Incentive Fund — Payroll rebate.
- 15-4-2708. Research and development tax credits.
- 15-4-2709. Targeted business special incentive.

SECTION.

- 15-4-2710. Powers and duties of the Arkansas Economic Development Commission.
- 15-4-2711. Administration. [Effective until January 1, 2023.]
- 15-4-2711. Administration. [Effective January 1, 2023.]
- 15-4-2712. Restrictions.
- 15-4-2714. [Repealed.]

Effective Dates. Acts 2017, No. 465, § 8; Mar. 13, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that most states exempt from sales and use tax the sale of property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment; that other states apply a reduced tax rate to the sale of property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment; that Arkansas taxes the sale of property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment at a tax rate of four and seven-eighths percent (4.875%) after application of the refund of tax paid for property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment; that the Arkansas Business and Economic Development Incentives Study conducted by Fluor Global Location Strategies and presented to the Bureau of Legislative Research in 2006 classified Arkansas as the

worst of the twelve states in the southeast region on the taxation of sales of industrial materials used in manufacturing; that Alabama, Mississippi, North Carolina, and other states have phased in exemptions for sales of property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment over time; that under the Streamlined Sales and Use Tax Agreement to which Arkansas is a party, reductions in sales and use tax must be implemented through a refund or rebate mechanism until a complete exemption is achieved; and that this act is immediately necessary because Arkansas, in imposing an effective tax rate of four and seven-eighths percent (4.875%) after application of the refund of tax paid for property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment, is not competitive with surrounding states and states in the southeast region, which costs the state present and future jobs. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public

peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health,

and safety shall become effective on July 1, 2019.”

Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: “Legislative intent — Contingent effectiveness.

“(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

“(b)(1) This act shall not become effective unless HB1468 of 2021 [Acts 2021, No. 586] is enacted during the Ninety-Third Regular Session of the General Assembly.

“(2) If HB1468 of 2021 [Acts 2021, No. 586] is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly.” House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

15-4-2703. Definitions.

As used in this subchapter:

(1) “Applied research” means any activity that applies the findings of basic research or other existing knowledge toward discovering new scientific knowledge that has specific commercial objectives with respect to new products, services, processes, or methods;

(2)(A) “Average hourly wage” means the amount obtained when payroll, as defined in this section, is divided by the number of hours worked to earn the payroll.

(B) For the purpose of subdivision (2)(A) of this section, forty (40) hours per week shall be used as the number of hours worked for a salaried employee;

(3) “Basic research” means the pursuit of new scientific knowledge or understanding that does not have specific immediate commercial objectives, although the pursuit may be in fields of present or potential commercial interest;

(4) “Contractual employee” means an employee who:

(A) May be included in the payroll calculations of a qualified business under this subchapter and is under the direct supervision of the qualified business receiving incentives under this subchapter, but

is an employee of a business other than the one receiving incentives under this subchapter;

(B) Otherwise meets the requirements of a new full-time permanent employee of the qualified business receiving incentives under this subchapter; and

(C) Receives a benefits package comparable to direct employees of the qualified business receiving incentives under this subchapter;

(5)(A) "Corporate headquarters" means a facility or portion of a facility where the majority of an eligible business's financial, human resources, engineering, legal, strategic planning, information technology, corporate communications, marketing, or other headquarters-related functions are effectuated on either a regional basis or a national basis under the direction of principal executive officers, including without limitation chief executive officers, chief operating officers, chief financial officers, or other senior-level officers based at the facility.

(B) A corporate headquarters shall be either a regional corporate headquarters or a national corporate headquarters.

(C) The Director of the Arkansas Economic Development Commission, with advice from the Secretary of the Department of Finance and Administration, may determine eligibility for a corporate headquarters facility if a difference exists between a business's disclosed corporate headquarters functions and its North American Industry Classification System primary business activity code;

(6)(A) "County or state average hourly wage" means the weighted average weekly earnings for Arkansans in all industries, both statewide and countywide, as calculated by the Division of Workforce Services in its most recent Annual Covered Employment and Earnings publication, divided by forty (40).

(B) The average hourly wage threshold determined at the approval date of the financial incentive agreement is the threshold for the term of the financial incentive agreement;

(7) "Distribution center" means a facility for the reception, storage, and shipping of:

(A) A business's own products or products that the business wholesales to retail businesses or ships to its own retail outlets if seventy-five percent (75%) of the sales revenue is from out-of-state customers;

(B) Products owned by other companies with which the business has contracts for storage and shipping if seventy-five percent (75%) of the sales revenue of the product owner is from out-of-state customers; or

(C) Products for sale to the general public if seventy-five percent (75%) of the sales revenue is from out-of-state customers;

(8) "Eligible businesses" means nonretail businesses engaged in commerce for profit that meet the eligibility requirements for the applicable incentive offered by this subchapter and fall into one (1) or more of the following categories:

(A) Manufacturers classified in sectors 31-33 in the North American Industry Classification System, as in effect January 1, 2017;

(B)(i) Businesses primarily engaged in the design and development of software, digital content production and preservation, computer processing and data preparation services, or information retrieval services.

(ii) All businesses in this group shall derive at least fifty-one percent (51%) of their sales revenue from out of state.

(iii) The average hourly wage paid by businesses in this group to employees whose payroll is subject to incentives under this subchapter shall exceed one hundred twenty-five percent (125%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands;

(C)(i) Businesses primarily engaged in film and digital product productions and postproductions.

(ii) All businesses in this group shall derive at least fifty-one percent (51%) of their sales revenue from out of state.

(iii) The average hourly wage paid by businesses in this group to employees whose payroll is subject to incentives under this subchapter shall exceed one hundred twenty-five percent (125%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands;

(D) Distribution centers or intermodal facilities;

(E) Office sector businesses;

(F) National or regional corporate headquarters, as classified by the North American Industry Classification System Code 551114, as in effect January 1, 2017, or as determined by the Director of the Arkansas Economic Development Commission under subdivision (5)(C) of this section;

(G) Businesses primarily engaged in research and development in the physical, engineering, and life sciences, as classified in the North American Industry Classification System Codes 541713, 541714, and 541715, as in effect January 1, 2017;

(H)(i) Scientific and technical services businesses.

(ii)(a) All businesses in this group shall derive at least fifty-one percent (51%) of their sales revenue from out of state.

(b) The average hourly wage paid by businesses in this group to employees whose payroll is subject to incentives under this subchapter shall exceed one hundred fifty percent (150%) of the lesser of the county or state average hourly wage for the county in which the business locates or expands;

(I) The Director of the Arkansas Economic Development Commission may classify a nonretail business as an eligible business if the following conditions exist:

(i) The business receives at least fifty-one percent (51%) of its sales revenue from out of state; and

(ii) The average hourly wage paid by the business to employees whose payroll is subject to incentives under this subchapter shall

exceed one hundred twenty-five percent (125%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands;

(J)(i) Businesses primarily engaged in other support activities for air transportation, as classified in the North American Industry Classification System Code 488190, as in effect on January 1, 2017.

(ii) All businesses in this group shall derive at least seventy-five percent (75%) of their sales revenue from out of state; and

(K)(i) Businesses primarily engaged in support activities for rail transportation, as classified in the North American Industry Classification System Code 488210, as in effect on January 1, 2017.

(ii) All businesses in this group shall derive at least seventy-five percent (75%) of their sales revenue from out of state;

(9) "Equity investment" means capital invested in common or preferred stock, royalty or intellectual property rights, limited partnership interests, limited liability company interests, and any other securities or rights that evidence ownership in private businesses, including a federal agency's award of a Small Business Innovation Research grant or a Small Business Technology Transfer grant;

(10)(A) "Existing employees" means those employees hired by a business before the date the financial incentive agreement was approved.

(B) Existing employees may be considered new full-time permanent employees only if:

(i) The position or job filled by the existing employee was created in accordance with the approved financial incentive agreement; and

(ii) The position vacated by the existing employee was either filled by a subsequent employee or no subsequent employee will be hired because the business no longer conducts the particular business activity requiring that classification.

(C) If the Director of the Arkansas Economic Development Commission and the secretary find that a significant impairment of Arkansas job opportunities for existing employees will otherwise occur, they may jointly authorize the counting of existing employees as new full-time permanent employees;

(11) "Facility" means a single physical location, which may consist of multiple structures of an eligible business that are conducting similar or complementary activities located on noncontiguous property within the same county, at which the eligible business is conducting its operations;

(12) "Film and digital product" means video images and other visual media entertainment content in digital format, film, or videotape, if the video images and other visual media entertainment content meet all the underlying criteria of a qualified production under the Digital Product and Motion Picture Industry Development Act of 2009, § 15-4-2001 et seq., including without limitation:

(A) A motion picture;

(B) A documentary;

- (C) A long-form program;
- (D) A special;
- (E) A mini-series;
- (F) A series;
- (G) A music video;
- (H) Television programming;
- (I) Interactive television;
- (J) An interactive game;
- (K) A video game;
- (L) A commercial;

(M) Digital media for distribution or exhibition to the general public; and

(N) A trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment;

(13) "Financial incentive agreement" means an agreement entered into by an eligible business and the Arkansas Economic Development Commission to provide the business an incentive to locate a new business or to expand or retain an existing business in Arkansas;

(14) "Governing authority" means the quorum court of a county or the governing body of a municipality;

(15)(A)(i) "In-house research" means applied research supported by the business through the payment of wages and usual fringe benefits specific to research activities of employees of the business or for wages and usual fringe benefits paid through contractual agreements, approved in writing by the Director of the Arkansas Economic Development Commission, with an Arkansas state college, an Arkansas state university, or other Arkansas-based research organization to perform research for a targeted business.

(ii) "In-house research" includes experimental, clinical, or laboratory activity to develop new products, improve existing products, or develop new uses of products, but only to the extent that activity is conducted in Arkansas.

(B) "In-house research" does not include tests or inspections of materials or products for quality control, efficiency surveys, management studies, other market research, supplies, the purchase of land, the purchase or rehabilitation of production machinery and equipment, the construction or renovation of buildings, or any other ordinary and necessary expenses of conducting business;

(16) "Intellectual property" means an invention, discovery, or new idea that the legal entity responsible for commercialization has legally protected for possible commercial gain, based on the disclosure of the creator;

(17) "Intermodal facility" means a facility with more than one (1) mode of interconnected movement of freight or commerce;

(18) "Investment threshold" means the minimum amount of investment in project costs that must be incurred to qualify for eligibility;

(19) "Invests" or "investment" means money expended by or on behalf of a qualified business that seeks to begin or expand operations

in Arkansas, and without this infusion of capital, the location or expansion may not take place;

(20) "Lease" means a right to possession of real property for a specific term in return for consideration, as determined in a lease agreement by both parties;

(21)(A) "Modernization" means an increase in efficiency or productivity of a business through investment in machinery or equipment, or both.

(B) "Modernization" does not include costs for routine maintenance or the installation of equipment that does not improve efficiency or productivity, except for expenditures for pollution control equipment mandated by state laws or rules, or federal laws or regulations;

(22) "National corporate headquarters" means the sole corporate headquarters in the nation that handles headquarters-related functions on a national basis;

(23)(A)(i) "New full-time permanent employee" means a position or job that was created pursuant to an approved financial incentive agreement and that is filled by one (1) or more employees or contractual employees who:

(a) Were Arkansas taxpayers during the year in which the tax credits or incentives were earned;

(b)(1) Work at the facility identified in the financial incentive agreement.

(2) New employees who do not work at the facility may be counted if they:

(A) Otherwise meet the definition of "new full-time permanent employee";

(B) Are subject to the Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.; and

(C) Meet an average hourly wage threshold equal to or greater than the state average hourly wage for the preceding calendar year; and

(c) Are not existing employees, except as allowed under subdivision (10) of this section.

(ii) The position or job held by the employee or employees shall have been filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours per week.

(B) However, to qualify under this subchapter, a contractual employee shall be offered a benefits package comparable to a direct employee of the business seeking incentives under this subchapter;

(24) "Nonretail business" means a business that is not classified in North American Industry Classification System sectors 44-45, as in effect on January 1, 2017;

(25)(A) "Office sector business" means business operations that support primary business needs, including without limitation customer service, credit accounting, telemarketing, claims processing, and other administrative functions.

(B) All businesses in this group shall be nonretail businesses and derive at least seventy-five percent (75%) of their sales revenue from out of state;

(26) "Payroll" means the total taxable wages, including overtime and bonuses, paid during the preceding tax year of the eligible business to new full-time permanent employees hired after the date of the approved financial incentive agreement;

(27)(A) "Person" means an individual, trust, estate, fiduciary, firm, joint venture, proprietorship, partnership, limited liability company, or corporation.

(B) "Person" includes:

- (i) The directors, officers, agents, and employees of any person;
- (ii) Beneficiaries, members, managers, and partners; and
- (iii) Any county or municipal subdivision of the state;

(28) "Preconstruction costs" means the costs of eligible items incurred before the start of construction, including:

- (A) Project planning costs;
- (B) Architectural and engineering fees;
- (C) Right-of-way purchases;
- (D) Utility extensions;
- (E) Site preparations;
- (F) Purchase of mineral rights;
- (G) Building demolition;
- (H) Builders risk insurance;
- (I) Capitalized start-up costs;
- (J) Deposits and process payments on eligible machinery and equipment; and

(K) Other costs necessary to prepare for the start of construction;

(29)(A) "Project costs" means costs associated with the:

(i) Construction of a new plant or facility, including without limitation land, building, machinery and equipment, or support infrastructure;

(ii) Expansion of an established plant or facility by adding to the building, machinery and equipment, or support infrastructure; or

(iii) Modernization of an established plant or facility through the replacement of machinery and equipment or support infrastructure that improves efficiency or productivity.

(B) "Project costs" does not include:

(i) Expenditures for routine repair and maintenance that do not result in new construction, expansion, or modernization;

(ii) Routine operating expenditures;

(iii) Expenditures incurred at multiple facilities; or

(iv) The purchase or acquisition of an existing business unless:

(a) There is sufficient documentation that the existing business was closed or will close; and

(b) The purchase of the existing business will result in the retention of jobs that would have been lost due to the closure.

(C) Eligible project costs must be incurred within:

(i) Four (4) years from the date a financial incentive agreement was approved by the commission; or

(ii) Six (6) years from the date a financial incentive agreement was approved by the commission in connection with a project qualifying for retention tax credits under § 15-4-2706(c)(1)(A) and approved on or after June 22, 2017;

(30) "Project plan" means a plan submitted to the commission containing the information required by the Director of the Arkansas Economic Development Commission to determine eligibility for incentives under this subchapter;

(31) "Qualified business" means an eligible business that:

(A) Has met the qualifications for one (1) or more economic development incentives authorized by this subchapter; and

(B) Has signed a financial incentive agreement that has been approved by the commission;

(32) "Qualified research expenditures" means the sum of any amounts that are paid or incurred by an Arkansas taxpayer during the taxable year in funding a qualified research program that has been approved for tax credit treatment under rules promulgated by the commission;

(33) "Region" or "regional" means a geographic area comprised of two (2) or more states, including this state and at least one (1) state that is contiguous to this state;

(34)(A) "Regional corporate headquarters" means a facility or portion of the facility in which the majority of an eligible business's financial, human resources, engineering, legal, strategic planning, information technology, corporate communications, marketing, or other headquarters-related functions are effectuated on a regional basis under the direction of principal executive officers, including without limitation chief executive officers, chief operating officers, chief financial officers, or other senior-level officers based at the facility.

(B) However, a function on a regional basis does not include a function involving manufacturing, processing, warehousing, distributing, or wholesaling activities or the operation of a call center;

(35) "Scientific and technical services business" means a business:

(A) Primarily engaged in performing scientific and technical activities for others, including:

(i) Architectural and engineering design;

(ii) Computer programming and computer systems design; and

(iii) Scientific research and development in the physical, biological, and engineering sciences;

(B) Deriving at least fifty-one percent (51%) of its sales revenue from out of state; and

(C) Paying employees whose payroll is subject to incentives under this subchapter average hourly wages exceeding one hundred fifty percent (150%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands;

(36) “Start of construction” means any activity that causes a physical change to the building or property, or both, identified as the site of the approved project, but excluding preconstruction costs;

(37) “Strategic research” means research that has strategic economic or long-term commercial value to the state and that is identified in the research and development plan approved by the Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission;

(38) “Support infrastructure” means physical assets necessary for the business to operate, including without limitation water systems, wastewater systems, gas and electric utilities, roads, bridges, parking lots, and communications infrastructure;

(39) “Targeted businesses” means a grouping of growing business sectors, not to exceed six (6), that include the following:

- (A) Advanced materials and manufacturing systems;
- (B) Agriculture, food, and environmental sciences;
- (C) Biotechnology, bioengineering, and life sciences;
- (D) Information technology;
- (E) Transportation logistics; and
- (F) Bio-based products; and

(40) “Tiers” means the ranking of the seventy-five (75) counties of Arkansas into four (4) divisions that delineate the economic prosperity of the counties and allow for different levels of incentives under this subchapter.

History. Acts 2003, No. 182, § 1; 2005, No. 1296, § 1; 2007, No. 1596, § 1; 2009, No. 716, §§ 3-5; 2011, No. 1197, § 1; 2015 (1st Ex. Sess.), No. 7, §§ 92-97; 2015 (1st Ex. Sess.), No. 8, §§ 92-97; 2019, No. 315, §§ 1073, 1074; 2019, No. 327, § 1; 2019, No. 910, §§ 391-397; 2021, No. 911, § 1.

A.C.R.C. Notes. Acts 2019, No. 910, § 395, deleted “Executive” in former subdivision (17)(A)(ii)(b) of this section. However, Acts 2019, No. 327, § 1, specifically repealed this subdivision.

Amendments. The 2019 amendment by No. 315 inserted “laws or rules” in (23)(B) (now (21)(B)); and deleted “and regulations” following “rules” in (34) (now (32)).

The 2019 amendment by No. 327 rewrote the section.

The 2019 amendment by No. 910, throughout the section, substituted “Division of Workforce Services” for “Department of Workforce Services” and substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission”; repealed the definition for “executive director”; and substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration” in (12)(C) (now (10)(C)).

The 2021 amendment added (29)(C)(ii) and made stylistic changes.

15-4-2704. Tier system.

(a) The Arkansas Economic Development Commission shall establish a tier system that shall rank all seventy-five (75) counties of this state into four (4) divisions on the basis of economic prosperity.

(b) Tier 4 shall be the least prosperous division and tier 1 shall be the most prosperous division.

(c) The assignment of a county to a tier shall be based on a ranking of:

- (1) Unemployment rate;
 - (2) Poverty rate;
 - (3) Per capita personal income; and
 - (4) Population change.
- (d) The commission shall:
- (1) Update ranking statistics annually; and
 - (2) Place counties into tiers based on the updated statistics.

(e)(1) A county that has experienced a sudden and severe period of economic distress caused by a closure of one (1) or more businesses or a mass layoff at one (1) or more businesses, or both, as documented by notice provided under the Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2101 et seq., as it existed on January 1, 2019, that results in the loss of a minimum of five percent (5%) of the county's employed labor force may be moved down one (1) tier upon written request by the county judge of the affected county and approval by the Director of the Arkansas Economic Development Commission.

(2) The five-percent threshold stated in subdivision (e)(1) of this section shall be evidenced by calculating the highest percentage difference in employment between the county's:

(A) Current monthly, not seasonally, adjusted total employed labor force; and

(B) Each of the following:

(i) The previous monthly, not seasonally, adjusted total employed labor force;

(ii) The most recent annually, not seasonally, adjusted total employed labor force; or

(iii) The monthly, not seasonally, adjusted total employed labor force for the same month of the previous year.

(3) If the director approves a county's move to a higher tier, a qualified business that has signed a financial incentive agreement with the commission dated before the director's action shall receive the incentives that were assigned to the county to which it located at the time the financial incentive agreement was signed, regardless of any subsequent change to the tier.

(4) A tier increase approved under this subsection remains in effect until the annual tier rankings are updated under subsection (d) of this section.

History. Acts 2003, No. 182, § 1; 2005, No. 1296, § 2; 2019, No. 327, § 1; 2019, No. 910, § 398.

A.C.R.C. Notes. Acts 2019, No. 910, § 398, replaced "Department" with "Division" before "of Workforce Services" in subdivision (e)(1) of this section. However, Acts 2019, No. 327, § 1, specifically repealed this reference.

Amendments. The 2019 amendment by No. 327 substituted "shall" for "will" twice in (b); inserted "personal" in (c)(3); substituted "change" for "growth" in (c)(4); and rewrote (e).

The 2019 amendment by No. 910 substituted "Division of Workforce Services" for "Department of Workforce Services" in (e)(1).

15-4-2705. Job-creation tax credit.

(a) There is established a job-creation tax credit to encourage:

- (1) The creation of new jobs; and
- (2) Business growth and expansion.

(b) An application for the income tax credit under this section shall be submitted to the Arkansas Economic Development Commission.

(c) To receive this credit, a qualified business shall meet minimum annual payroll thresholds for new full-time permanent employees for the county tier in which the project is located, as follows:

(1) For tier 1 counties, the annual payroll threshold is at least one hundred twenty-five thousand dollars (\$125,000);

(2) For tier 2 counties, the annual payroll threshold is at least one hundred thousand dollars (\$100,000);

(3) For tier 3 counties, the annual payroll threshold is at least seventy-five thousand dollars (\$75,000); and

(4) For tier 4 counties, the annual payroll threshold is at least fifty thousand dollars (\$50,000).

(d)(1) The credit earned under this section is a percentage of the payroll of the new full-time permanent employees hired following the date of the approved financial incentive agreement.

(2) The percentage shall be determined by the county tier in which the project is located, as follows:

(A) For tier 1 counties, the credit is one percent (1%) of the payroll for the new full-time permanent employees of the business;

(B) For tier 2 counties, the credit is two percent (2%) of the payroll for the new full-time permanent employees of the business;

(C) For tier 3 counties, the credit is three percent (3%) of the payroll for the new full-time permanent employees of the business; and

(D) For tier 4 counties, the credit is four percent (4%) of the payroll for the new full-time permanent employees of the business.

(3) To qualify for a credit under this subsection, the average hourly wage paid to employees whose payroll is subject to incentives under this subchapter shall be at least equal to the greater of the lowest county average hourly wage as calculated by the commission based on the most recent calendar year data published by the Division of Workforce Services, or twelve dollars and fifty cents (\$12.50).

(4) A qualified business shall receive an additional tax credit of one percent (1%) of the payroll of new full-time permanent employees if the average hourly wage paid to employees subject to incentives under this subchapter exceeds one hundred twenty-five percent (125%) of the lesser of the county or state average hourly wage for the county in which the qualified business locates or expands.

(e) The term of the financial incentive agreement shall be for a period of five (5) years, beginning on the date of the approved financial incentive agreement.

(f)(1) After receiving an approved financial incentive agreement from the commission, a qualified business shall certify to the Department of

Finance and Administration the payroll of the new full-time permanent employees annually at the end of each tax year during the term of the financial incentive agreement.

(2) Upon verification of the reported payroll amounts, the department shall authorize the appropriate income tax credit.

(g)(1) The tax credits earned under this section may offset up to fifty percent (50%) of the business's tax liability annually.

(2) Any unused tax credits may be carried forward for up to nine (9) years after the year in which the credit was first earned or until exhausted, whichever occurs first.

(h)(1) If a qualified business fails to meet the payroll threshold within two (2) years after the date of the approved financial incentive agreement or within the time period established by an extension approved by the Secretary of the Department of Finance and Administration and the Director of the Arkansas Economic Development Commission, the qualified business is liable for repayment of all incentives previously received under § 15-4-2706(d) that were conditioned on an approved financial incentive agreement under this section for which the payroll threshold has not been met.

(2) If a qualified business fails to reach the payroll threshold of this section in a timely manner, the department shall have two (2) years to collect incentives previously received by the qualified business or file a lawsuit to enforce the repayment provisions.

History. Acts 2003, No. 182, § 1; 2005, No. 1296, § 3; 2009, No. 716, § 6; 2019, No. 327, § 1; 2019, No. 910, §§ 399, 400.

Amendments. The 2019 amendment by No. 327 rewrote (c); rewrote (d)(3); added (d)(4); substituted "five (5) years" for "sixty (60) months" in (e); and rewrote (f) through (h).

The 2019 amendment by No. 910 substituted "Division of Workforce Services"

for "Department of Workforce Services" in (d)(3); and, in (h)(1), substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" and "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission".

15-4-2706. Investment tax incentives.

(a) There are established investment tax incentives to:

(1) Encourage capital investment for the long-term viability of businesses in the state; and

(2) Create new jobs.

(b)(1) The award of incentives under this section are at the discretion of the Director of the Arkansas Economic Development Commission.

(2) If offered, an application for an income tax credit under this section shall be submitted to the Arkansas Economic Development Commission.

(3) Eligibility for incentives under this section is dependent upon the tier in which the project is located, as follows:

(A) For tier 1 counties, the business shall invest five million dollars (\$5,000,000) or more and have an annual payroll for new full-time permanent employees in excess of two million dollars (\$2,000,000);

(B) For tier 2 counties, the business shall invest three million seven hundred fifty thousand dollars (\$3,750,000) or more and have an annual payroll for new full-time permanent employees in excess of one million five hundred thousand dollars (\$1,500,000);

(C) For tier 3 counties, the business shall invest three million dollars (\$3,000,000) or more and have an annual payroll for new full-time permanent employees in excess of one million two hundred thousand dollars (\$1,200,000); and

(D) For tier 4 counties, the business shall invest two million dollars (\$2,000,000) or more and have an annual payroll for new full-time permanent employees in excess of eight hundred thousand dollars (\$800,000).

(4) An approved financial incentive agreement shall be transmitted to the qualified business and the Department of Finance and Administration.

(5) A qualified business shall reach the investment threshold within four (4) years from the date of the approved financial incentive agreement, except for lease payments authorized by subdivision (b)(6)(D) of this section or subdivision (c)(6) of this section.

(6)(A)(i) After receiving an approved financial incentive agreement from the commission, a qualified business shall certify to the department the eligible project costs annually at the end of each calendar year for the term of the financial incentive agreement.

(ii) The department shall authorize an income tax credit of ten percent (10%) of total audited eligible project costs.

(B) The amount of income tax credit authorized under subdivision (a)(6)(A)(ii) of this section may offset up to fifty percent (50%) of a qualified business's income tax liability annually.

(C) Unused tax credits may be carried forward for up to nine (9) years after the year in which the credit was first earned or until the tax credits are exhausted, whichever occurs first.

(D) A qualified business that enters into a lease for a building or equipment for a period of at least five (5) years may count the lease payments for the first five (5) years as a qualifying expenditure for the investment threshold required for this investment incentive.

(7) Technology-based enterprises, as defined by § 14-164-203, may earn, at the discretion of the director, an income tax credit or sales and use tax credit based on new investment, provided that the technology-based enterprise:

(A) Creates a new payroll of at least two hundred fifty thousand dollars (\$250,000); and

(B) Pays an average hourly wage that is at least one hundred fifty percent (150%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands.

(8)(A) The income tax credit or sales and use tax credit that may be earned by a technology-based enterprise is based on the amount of investment as follows:

(i) The income tax credit or sales and use tax credit is equal to two percent (2%) of the investment for an investment that is between two

hundred fifty thousand dollars (\$250,000) and five hundred thousand dollars (\$500,000);

(ii) The income tax credit or sales and use tax credit is equal to four percent (4%) of the investment for that part of the investment that is over five hundred thousand dollars (\$500,000) and less than one million dollars (\$1,000,000);

(iii) The income tax credit or sales and use tax credit is equal to six percent (6%) of the investment for that part of the investment that is over one million dollars (\$1,000,000) and less than two million dollars (\$2,000,000); and

(iv) The income tax credit or sales and use tax credit is equal to eight percent (8%) of the investment for that part of the investment that is over two million dollars (\$2,000,000).

(B) The amount of credit earned is determined based upon the amount invested, as verified by an audit by the department.

(9) All investments by a technology-based enterprise shall be made within four (4) years of the date of the approved financial incentive agreement.

(10) Prior to commission approval of a financial incentive agreement, the business shall elect to receive the tax credits as either:

(A) A sales and use tax credit; or

(B) An income tax credit.

(11) The income tax credit or sales and use tax credit earned by a technology-based enterprise may offset income tax liabilities or sales and use tax liabilities as follows:

(A) A technology-based enterprise that pays at least one hundred fifty percent (150%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands may offset up to fifty percent (50%) of its income tax liability or sales and use tax liability annually;

(B) A technology-based enterprise that pays at least one hundred seventy-five percent (175%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands may offset up to seventy-five percent (75%) of its income tax liability or sales and use tax liability annually; and

(C) A technology-based enterprise that pays at least two hundred percent (200%) of the lesser of the state or county average hourly wage for the county in which the business locates or expands may offset up to one hundred percent (100%) of its income tax liability or sales and use tax liability annually.

(12) After receiving an approved financial incentive agreement from the commission, a qualified business shall certify to the department the eligible project costs and average hourly wages annually at the end of each tax year for the term of the financial incentive agreement.

(13) Unused income tax credits or sales and use tax credits may be carried forward for up to nine (9) years after the year in which the credit was first earned or until the tax credits are exhausted, whichever occurs first.

(c)(1)(A) An application for a retention tax credit under this subsection shall be submitted to the commission.

(B)(i) The application shall be submitted to the commission before incurring any project costs.

(ii) With the exception of preconstruction costs, only those costs incurred after the commission's approval are eligible for the tax credit.

(2) The tax credit against the qualified business's sales and use tax liability is available only to Arkansas businesses that:

(A) Have been in continuous operation in the state for at least two (2) years;

(B) Invest a minimum of five million dollars (\$5,000,000) in a project, including land, buildings, and equipment used in the construction, expansion, or modernization; and

(C) Hold a direct-pay sales and use tax permit from the department before submitting an application for incentives.

(3)(A) If allowed, the credit shall be a percentage of the eligible project costs.

(B) The amount of the credit shall be five-tenths percent (0.5%) above the state sales and use tax rate in effect at the time a financial incentive agreement is signed with the commission.

(C) In any one (1) year following the year of the expenditures, credits taken cannot exceed fifty percent (50%) of the direct pay sales and use tax liability of the qualified business for taxable purchases.

(D) Unused credits may be carried forward for a period of up to five (5) years beyond the year in which the credit was first earned.

(E) Retention tax credits earned between forty-nine (49) and seventy-two (72) months after the commission approved the financial incentive agreement may be taken only:

(i) On and after July 1, 2023;

(ii) After the director has determined, based on evidence provided by the applicant, that the applicant's investment in the part of the qualified project to be completed between forty-nine (49) and seventy-two (72) months after the commission approved the financial incentive agreement will generate a return that will likely be equal to or greater than the amount of retention tax credits under this subdivision (c)(3)(E); and

(iii) For an application filed with the commission between June 22, 2017, and June 28, 2017.

(F) The maximum amount of retention tax credits under subdivision (c)(3)(E) of this section that may be used in any fiscal year by a qualified applicant is seven hundred fifty thousand dollars (\$750,000).

(4)(A) Upon determination by the director that the project qualifies for credit under this subsection, the director shall certify to the Secretary of the Department of Finance and Administration that the project qualifies and shall transmit with his or her certification the documents or copies of the documents upon which the certification was based.

(B) The secretary shall provide forms to the qualified business on which to claim the credit.

(C) At the end of the calendar year in which the application is made and at the end of each calendar year thereafter until the project is completed, the qualified business shall certify on the form provided by the secretary the amount of expenditures on the project during the preceding calendar year.

(D) Upon receipt of the form certifying expenditures, the secretary shall determine the amount due as a credit for the preceding calendar year and issue a memorandum of credit to the qualified business.

(E) The credit against the qualified business's sales and use tax liability shall be a percentage of the eligible project costs equal to five-tenths percent (0.5%) above the state sales and use tax rate in effect at the time the financial incentive agreement was approved by the commission.

(5) If a business plans to apply for incentives under this subsection and also plans to apply for incentives under § 15-4-2705, the financial incentive agreement under § 15-4-2705 shall be approved within two (2) years after signing the financial incentive agreement under this subsection.

(6) A qualified business that enters into a lease for a building or equipment for a period of at least five (5) years may count the lease payments for the first five (5) years as a qualifying expenditure for the investment threshold required for this investment incentive.

(7)(A) A business may apply for the retention tax credit under this subsection through June 30, 2017.

(B)(i) An application for the retention tax credit under this subsection shall not be accepted on or after July 1, 2017.

(ii) However, projects that qualify for a retention tax credit based on an application filed through June 30, 2017, shall continue to earn credits as provided in this section.

(iii) Retention tax credits issued on a project that qualifies for retention tax credits based on an application filed through June 30, 2017, shall remain in effect and shall be taken and carried forward as otherwise provided in this section.

(d)(1)(A) An application for a state and local sales and use tax refund for a new or expanding business shall be filed with the commission contingent upon the approval of an endorsement resolution from the governing authority of a municipality or county, or both, in whose jurisdiction the business will be located.

(B) The resolution shall:

(i) Endorse the business's participation in this sales and use tax refund program; and

(ii) Specify that the department is authorized to refund local sales taxes to the qualified business.

(C) To qualify for a refund under this subsection, a qualified business shall meet the minimum investment thresholds for the tier in which the qualified business expands or locates, as follows:

(i) For tier 1 counties, the minimum investment threshold is at least five hundred thousand dollars (\$500,000);

(ii) For tier 2 counties, the minimum investment threshold is at least four hundred thousand dollars (\$400,000);

(iii) For tier 3 counties, the minimum investment threshold is at least three hundred thousand dollars (\$300,000); and

(iv) For tier 4 counties, the minimum investment threshold is at least two hundred thousand dollars (\$200,000).

(2)(A)(i) The secretary shall authorize a sales and use tax refund of state and local sales and use taxes, excepting the sales and use taxes dedicated to the Educational Adequacy Fund and the Conservation Tax Fund on the purchases of the material used in the construction of a building or buildings or any addition, modernization, or improvement thereon for housing any new or expanding qualified business and machinery and equipment to be located in or in connection with such a building.

(ii) The local sales and use tax may be refunded only from the municipality or county, or both, in which the qualified business is located.

(B) A refund shall not be authorized for:

(i) Routine operating expenditures; or

(ii) The purchase of replacement items previously purchased as part of a project under this subsection unless the items previously purchased are necessary for the implementation or completion of the project.

(3)(A) Subject to the approval of the commission, a qualified business may make changes to a project by written amendment to the project plan filed with the commission.

(B) The commission shall not approve an amendment under subdivision (d)(3)(A) of this section that results in a cost increase of more than twenty-five percent (25%) of the initial project plan.

(4) All claims for sales and use tax refunds under this subsection shall be denied unless they are filed with the department within three (3) years from the date of the qualified purchase or purchases.

(5)(A)(i) To be eligible for the incentives under this subsection, a qualified business shall meet all payroll creation requirements of its approved financial incentive agreement under § 15-4-2705 or § 15-4-2707.

(ii) However, a business may apply for incentives under this subsection if:

(a) The business has an existing financial incentive agreement approved under this subdivision (d)(5)(A) and the provisions of subdivision (d)(5)(B) of this section have been met within the previous four (4) years; or

(b) The business has signed a financial incentive agreement approved under § 15-4-2705 or § 15-4-2707 within the previous four (4) years.

(B) The financial incentive agreement under § 15-4-2705 or § 15-4-2707 shall be approved within two (2) years after the financial incentive agreement under this subsection is approved.

(e)(1) A targeted business may be eligible for a refund of state and local sales and use taxes for qualified expenditures at the discretion of the director if:

(A)(i) The annual payroll of the targeted business for Arkansas taxpayers is greater than one hundred thousand dollars (\$100,000) and less than one million dollars (\$1,000,000).

(ii) The payroll requirement in subdivision (e)(1)(A)(i) of this section applies only to the initial eligibility determination and does not preclude a qualified business from receiving incentives if, at any time after the financial incentive agreement is approved, actual payroll does not satisfy the requirements in subdivision (e)(1)(A)(i) of this section; and

(B) The targeted business shows proof of an equity investment of at least two hundred fifty thousand dollars (\$250,000).

(2)(A) An application for the targeted business state and local sales and use tax refund program for a new or expanding targeted business shall be filed with the commission contingent upon the approval of an endorsement resolution from the governing authority of a municipality or county, or both, in whose jurisdiction the targeted business will be located.

(B) The resolution shall:

(i) Endorse the business's participation in this sales and use tax refund program; and

(ii) Specify that the department is authorized to refund local sales and use taxes to the targeted business.

(3) An approved financial incentive agreement and any other pertinent documentation shall be forwarded to the secretary.

(4)(A)(i) The secretary shall authorize a sales and use tax refund of state and local sales and use taxes, excepting the sales and use taxes dedicated to the Educational Adequacy Fund and the Conservation Tax Fund on the purchases of the material used in the construction of a building or buildings or any addition, modernization, or improvement thereon for housing any new or expanding qualified business and machinery and equipment to be located in or in connection with such a building.

(ii) The local sales and use tax may be refunded only from the municipality or county, or both, in which the qualified business is located.

(B) A refund shall not be authorized for:

(i) Routine operating expenditures; or

(ii) The purchase of replacement items previously purchased as part of a project under this subsection unless the items previously purchased are necessary for the implementation or completion of the project.

(5)(A) Subject to the approval of the commission, a qualified business may make changes to a project by written amendment to the project plan filed with the commission.

(B) The commission shall not approve an amendment under subdivision (e)(5)(A) of this section that results in a cost increase of more than twenty-five percent (25%) of the initial project plan.

(6) All claims for sales and use tax refunds under this subsection shall be denied unless they are filed with the department within three (3) years after the date of the qualified purchase or purchases.

(7) If a targeted business plans to apply for benefits under this subsection and also plans to apply for benefits under § 15-4-2709, the financial incentive agreement under § 15-4-2709 must be signed within twenty-four (24) months of signing the financial incentive agreement under this subsection and comply with the eligibility requirements of the financial incentive agreements.

(8) To be eligible for the incentives under this subsection, a targeted business shall meet all payroll creation requirements of an approved financial incentive agreement under § 15-4-2707 or § 15-4-2709 within two (2) years of the date of the approved financial incentive agreement under this subsection or other subsequent date if approved by the director.

History. Acts 2003, No. 182, § 1; 2005, No. 1296, § 4; 2007, No. 1596, § 2; 2009, No. 716, §§ 7, 8; 2017, No. 465, § 1; 2019, No. 327, § 1; 2019, No. 910, §§ 401-407; 2021, No. 911, § 2.

A.C.R.C. Notes. Acts 2019, No. 910, §§ 402-407, deleted “Executive” in subdivision (b)(4) of this section, replaced “Director” with “Secretary” in subdivision (d)(2)(A)(i) of this section, deleted “Director” and replaced “Director” with “Secretary” in subdivision (e)(3) of this section, and replaced “Director” with “Secretary” in subdivision (e)(4) (A)(i) of this section. However, Acts 2019, No. 327, § 1, specifically repealed all of these references.

Amendments. The 2017 amendment added (c)(7).

The 2019 amendment by No. 327 rewrote the section.

The 2019 amendment by No. 910, throughout the section, substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” and substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration”.

The 2021 amendment added (c)(3)(E) and (c)(3)(F).

15-4-2707. Economic Development Incentive Fund — Payroll rebate.

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Economic Development Incentive Fund” of the Arkansas Economic Development Commission.

(b) The fund shall consist of revenues designated for this fund by the Department of Finance and Administration pursuant to approved financial incentive agreements entered into by the commission with qualified businesses.

(c) After the department has received and verified the certification of the payrolls of the qualified businesses for the payroll rebate authorized by this section, the department shall transfer the appropriate amount of money designated by the financial incentive agreements out of general revenues into a special account designated as special revenue for the fund.

(d)(1) The award of this incentive is at the discretion of the Director of the Arkansas Economic Development Commission and may be offered for a period of up to ten (10) years.

(2)(A) To receive an incentive under this section, a qualified business shall meet minimum annual payroll thresholds for new full-time permanent employees for the county tier in which the project is located, as follows:

(i) For tier 1 counties, the annual payroll threshold is at least two million dollars (\$2,000,000);

(ii) For tier 2 counties, the annual payroll threshold is at least one million seven hundred fifty thousand dollars (\$1,750,000);

(iii) For tier 3 counties, the annual payroll threshold is at least one million five hundred thousand dollars (\$1,500,000); and

(iv) For tier 4 counties, the annual payroll threshold is at least one million two hundred fifty thousand dollars (\$1,250,000).

(B) A qualified business approved for an incentive under this subsection shall certify or recertify payroll annually by filing the appropriate documents with the department.

(C) The qualified business claiming incentives under this subsection shall claim the rebate payment on an annual basis by certifying or recertifying payroll figures meeting the requisite threshold by filing the appropriate claim forms with the department.

(D) Failure to certify or recertify payroll figures and claim the earned rebate payment annually shall result in:

(i) A ten-percent reduction of the earned rebate if not claimed within twelve (12) months from the end of the tax year in which the rebate was earned;

(ii) A one hundred-percent forfeiture of the earned rebate if not claimed within twenty-four (24) months from the end of the tax year in which the rebate was earned; or

(iii) Termination of the financial incentive agreement if an initial certification has not been filed with the department within four (4) years after the date of the approved financial incentive agreement, unless the date has been extended by the director.

(3) Payments are subject to the following conditions:

(A) For tier 1 counties, the incentive is three and nine-tenths percent (3.9%) of the annual payroll of new full-time permanent employees;

(B) For tier 2 counties, the incentive is four and twenty-five-hundredths percent (4.25%) of the annual payroll of new full-time permanent employees;

(C) For tier 3 counties, the incentive is four and five-tenths percent (4.5%) of the annual payroll of new full-time permanent employees;

(D) For tier 4 counties, the incentive is five percent (5%) of the annual payroll of new full-time permanent employees; and

(E) The director may authorize an enhanced incentive to a prospective eligible business of up to five percent (5%) of the payroll of new full-time permanent employees if the following conditions exist:

(i) The prospective eligible business is considering a location in another state;

(ii) The prospective eligible business receives at least fifty-one percent (51%) of its sales revenue from out of state; and

(iii) The prospective eligible business is proposing to pay wages in excess of one hundred percent (100%) of the county average hourly wage of the county in which it locates.

(4) To qualify for an incentive under this subsection, except for the enhanced incentive in subdivision (d)(3)(E) of this section, the average hourly wage paid to employees whose payroll is subject to incentives shall be at least equal to the greater of the lowest county average hourly wage as calculated by the commission based on the most recent calendar year data published by the Division of Workforce Services, or twelve dollars and fifty cents (\$12.50).

(5) A qualified business shall receive an additional incentive of one percent (1%) of the payroll of new full-time permanent employees if the average hourly wage paid to employees subject to incentives exceeds the lesser of one hundred twenty-five percent (125%) of the county or state average hourly wage for the county in which the business locates or expands.

(e)(1) Technology-based enterprises, as defined in § 14-164-203, may earn, at the discretion of the director, a payroll rebate equal to five percent (5%) of the payroll for new full-time permanent employees for a period not to exceed ten (10) years.

(2) To qualify for the payroll rebate:

(A) The average hourly wage of the payroll for new full-time permanent employees must be at least one hundred fifty percent (150%) of the lesser of the state or county average hourly wage for the county in which the technology-based enterprise locates or expands;

(B) The payroll for new full-time permanent employees must exceed two hundred fifty thousand dollars (\$250,000); and

(C) The payroll rebate authorized by this subsection shall not be used in combination with the income tax credit based on payroll authorized by § 15-4-2709.

History. Acts 2003, No. 182, § 1; 2005, No. 1296, § 5; 2007, No. 1596, § 3; 2009, No. 625, § 1; 2019, No. 327, § 1; 2019, No. 910, §§ 408-410.

Amendments. The 2019 amendment by No. 327 rewrote the section.

The 2019 amendment by No. 910, throughout this section, substituted "Di-

rector of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission", and deleted "executive" preceding "director".

15-4-2708. Research and development tax credits.

(a)(1)(A) Eligible businesses that have not previously been approved for incentives under this subsection and that conduct in-house research that has been approved for federal research and development tax credits may qualify, at the discretion of the Director of the Arkansas Economic Development Commission, for an income tax credit of up to twenty percent (20%) of the incremental amount spent on in-house research that exceeds the baseline established in the preceding year, for a period of five (5) years, subject to extension at the discretion of the director.

(B) The initial baseline for a qualified business new to the incentives offered under this subsection is the amount of research conducted in the state as claimed for federal research and development tax credits during the most recent year.

(C) Tax credits for the first year shall be calculated based on the incremental eligible expenditures for research and development at the end of the first year minus the research and development expenditures as reported by the qualified business for research and development tax credits under subdivision (a)(1)(B) of this section.

(D) Tax credits for succeeding years shall be calculated as the difference between the current year's research conducted in the state and the previous year's research conducted in the state.

(2) The income tax credit may be used to offset up to one hundred percent (100%) of a qualified business's annual income tax liability.

(3) Unused tax credits may be carried forward for up to nine (9) years after the year in which the credit was first earned or until the tax credits are exhausted, whichever occurs first.

(4) A qualified business claiming tax credits earned under this subsection shall not receive the credit granted by § 26-51-1102(b) for the same expenditures.

(5)(A) The term of the financial incentive agreement for in-house research authorized by this subsection is for a period not to exceed five (5) years.

(B) The financial incentive agreement may be renewed for additional five-year periods upon the submittal to and approval of the director of a new application and project plan for incentives under this subsection.

(C) The qualified business claiming a tax credit under this subsection shall certify annually to the Arkansas Economic Development Commission the amount expended on in-house research.

(b)(1) Targeted businesses may qualify for an income tax credit equal to thirty-three percent (33%) of the amount spent on in-house research per year for the first five (5) tax years following the targeted business's signing a financial incentive agreement with the commission.

(2) The credits earned by targeted businesses may be sold as authorized in § 15-4-2709.

(c)(1) An Arkansas taxpayer may be offered, at the discretion of the director, an income tax credit equal to thirty-three percent (33%) of the

amount spent on the research for the first five (5) tax years following the business's signing a financial incentive agreement with the commission, subject to the limitations established under § 26-51-1103 if the taxpayer invests in:

(A) In-house research in a strategic research area; or

(B) Projects under the research and development programs of the Division of Science and Technology of the Arkansas Economic Development Commission when the projects directly involve an Arkansas business and are approved by the director with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission under rules promulgated by the commission for those programs.

(2) However, the maximum tax credit for a qualified business engaged in a research area of strategic value or involved in research and development programs sponsored by the division shall not exceed fifty thousand dollars (\$50,000) per year.

(3) A qualified business claiming tax credits earned under this subsection shall not receive the credit granted by § 26-51-1102(b) for the same expenditures.

(4)(A) A qualified business claiming tax credits earned under this subsection may offset up to one hundred percent (100%) of the business's Arkansas income tax liability annually.

(B) Any unused income tax credits may be carried forward for up to nine (9) years after the year in which the credit was first earned or until exhausted, whichever occurs first.

(d) To claim the credit granted under subsections (a)-(c) of this section, the taxpayer shall file with his or her return, as an attachment to the form prescribed by the Secretary of the Department of Finance and Administration, copies of documentation to show that the commission has approved the research expenditure as a part of a qualified in-house research program or under the research and development programs of the division.

History. Acts 2003, No. 182, § 1; 2005, No. 1232, § 3; 2005, No. 1296, § 6; 2007, No. 1596, §§ 4, 6; 2009, No. 716, § 9; 2015 (1st Ex. Sess.), No. 7, § 98; 2015 (1st Ex. Sess.), No. 8, § 98; 2019, No. 327, § 1; 2019, No. 910, §§ 411, 412.

A.C.R.C. Notes. Acts 2019, No. 910, § 412, deleted "Executive" in subsection (e) of this section. However, Acts 2019, No. 327, § 1, specifically repealed that reference.

Amendments. The 2019 amendment by No. 327 rewrote the section

The 2019 amendment by No. 910 substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (d)(1)(B) and (e); and substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (e).

15-4-2709. Targeted business special incentive.

(a) A special incentive based on the payroll of targeted businesses in the state may be offered, at the discretion of the Director of the Arkansas Economic Development Commission, to:

(1) Encourage the development of jobs that pay significantly more than the average hourly wage in the county in which the targeted business locates or the state average hourly wage if the state average hourly wage is less than the county average hourly wage; and

(2) Provide an incentive to assist with the start-up of businesses targeted for growth.

(b) To qualify for the special incentive provided by subsection (c) of this section, a business shall:

(1) Be identified by the Arkansas Economic Development Commission as being one of those business sectors targeted for growth under § 15-4-2703;

(2)(A) Have an annual payroll of the business for Arkansas taxpayers of not less than one hundred thousand dollars (\$100,000) or more than one million dollars (\$1,000,000).

(B) The payroll requirement under subdivision (b)(2)(A) of this section applies only to the initial eligibility determination and does not preclude qualified businesses from receiving incentives if, at any time after the financial incentive agreement has been approved, actual payroll does not satisfy the requirements in subdivision (b)(2)(A) of this section;

(3) Show proof of an equity investment of two hundred fifty thousand dollars (\$250,000) or more; and

(4) Pay average hourly wages in excess of the lesser of one hundred fifty percent (150%) of the county or state average hourly wage for the county in which the targeted business locates or expands.

(c)(1) A targeted business may earn an income tax credit equal to ten percent (10%) of its annual payroll, with the maximum payroll credit not to exceed one hundred thousand dollars (\$100,000) in any year during the term of the financial incentive agreement.

(2)(A) The term of the financial incentive agreement shall be established by the director for a period not to exceed five (5) years.

(B) The term of the financial incentive agreement for targeted businesses earning a tax credit under this subsection shall begin on January 1 of the year following the year in which the financial incentive agreement was approved.

(C) The director may allow a qualified targeted business to sell any income tax credits earned through one (1) or more incentives authorized by this subchapter.

(d)(1) To sell income tax credits earned through incentives authorized by this subchapter, the targeted business shall apply to the commission and furnish information necessary to facilitate the sale of income tax credits.

(2)(A) Any unused tax credits may be carried forward for up to nine (9) years after the year in which the credit was first earned or until exhausted, whichever occurs first.

(B) Taxpayers purchasing tax credits under this subsection shall be subject to the same carry-forward provisions as the targeted business that earned the credits.

(C) The purchase of the tax credits does not establish a new carry-forward period for the ultimate recipient.

(e) A targeted business claiming or selling tax credits earned under this section or § 15-4-2708 shall not receive the credit granted by § 26-51-1102(b) for the same expenditures.

History. Acts 2003, No. 182, § 1; 2005, No. 1232, § 2; 2005, No. 1296, §§ 7, 8; 2007, No. 1596, § 5; 2009, No. 716, § 10; 2019, No. 327, § 1; 2019, No. 910, §§ 413, 414.

Amendments. The 2019 amendment by No. 327, in the introductory language of (a), deleted “the new” preceding “targeted” and substituted “may be offered, at the discretion of the Executive Director of the Arkansas Economic Development Commission” for “is established”; deleted “county” preceding the first occurrence of “average” in (a)(1); in the introductory language of (b), deleted “new” preceding “business”; redesignated former (b)(2) as (b)(2)(A); added (b)(2)(B); in (b)(4), inserted “the lesser of” and substituted “for the county in which the targeted business locates or expands” for “whichever is less”;

deleted “new” preceding “targeted” in (c)(1) and (d)(1); in (c)(2)(B), deleted “or under § 15-4-2708(c)” following “subsection”, inserted “following the year”, and substituted “approved” for “signed”; inserted “up to” in (d)(2)(A); substituted “Taxpayers purchasing tax credits under this subsection” for “The ultimate recipient of the tax credits” in (d)(2)(B); substituted “shall not receive the credit” for “shall be prohibited from receiving the credit” in (e); deleted (f); and made stylistic changes.

The 2019 amendment by No. 910 substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (c)(2)(A); and deleted “executive” preceding “director” in (c)(2)(C).

15-4-2710. Powers and duties of the Arkansas Economic Development Commission.

The Arkansas Economic Development Commission shall administer this subchapter and in addition to powers and duties mentioned in other laws may:

(1) Promulgate rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., necessary to carry out the provisions of this subchapter;

(2) Provide the Department of Finance and Administration with a copy of each financial incentive agreement entered into by the commission with each qualified business;

(3) Assist the governing authority in obtaining assistance from any other agency of state government, including assistance to new businesses and industries;

(4) Assist any employer or prospective employer with a qualifying project in obtaining the benefits of any incentive or inducement program authorized by state law;

(5) Act as a liaison between other state agencies and businesses and industries to ensure that both the spirit and intent of this subchapter are met;

(6) Make disbursements from the Economic Development Incentive Fund to qualified businesses as authorized in § 15-4-2707; and

(7) Negotiate proposals on behalf of the state with prospective businesses that are considering locating new facilities or expanding

existing facilities that would seek the incentives of the discretionary programs under this subchapter.

History. Acts 2003, No. 182, § 1; 2009, No. 716, § 11; 2019, No. 315, § 1075; 2019, No. 327, § 1.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (1).

The 2019 amendment by No. 327 deleted “and regulations” following “rules”

in (1); substituted “qualified” for “qualifying” in (2); and, in (7), substituted “incentives” for “benefits” and substituted “the discretionary programs under this subchapter” for “§ 15-4-2706(b), § 15-4-2706(e), § 15-4-2707, § 15-4-2708(c), or § 15-4-2709”.

15-4-2711. Administration. [Effective until January 1, 2023.]

(a) A person claiming credit under § 15-4-2706(c) is a “taxpayer” within the meaning of § 26-18-104(17) and is subject to all applicable provisions of that section.

(b) Administration of § 15-4-2706(c) shall be under the Arkansas Tax Procedure Act, § 26-18-101 et seq.

(c)(1) All claims for sales and use tax refunds under § 15-4-2706(d) and (e) shall be filed annually with the Department of Finance and Administration within three (3) years from the date of the qualified purchase or purchases.

(2) Claims filed after three (3) years from the date of the qualified purchase or purchases shall be denied.

(d)(1) The time limitation for § 15-4-2706(d) and (e) for filing claims shall be tolled if:

(A) A qualified business fails to pay sales tax on an item that was taxable; and

(B) The applicable tax is subsequently assessed as a result of an audit by the department.

(2) All claims for sales and use tax refunds relating to an audited purchase are entitled to a refund of interest paid on the amount of tax assessed on the audited purchase if a refund is approved for the purchase.

(e) A qualified business shall reach the investment thresholds under § 15-4-2706 within four (4) years from the date of the approved financial incentive agreement.

(f)(1) All claims for payroll rebate payments under § 15-4-2707 shall be certified to the department and shall be recertified annually thereafter during the term of the financial incentive agreement.

(2) Failure to annually certify or recertify payroll figures and claim the rebate payment shall result in:

(A) A ten-percent reduction of the earned rebate if not claimed within one (1) year from the end of the tax year in which the rebate was earned;

(B) A one hundred percent (100%) forfeiture of the earned rebate if not claimed within two (2) years from the end of the tax year in which the rebate was earned; or

(C) Termination of the financial incentive agreement if an initial certification has not been filed with the department within four (4)

years after the date of the approved financial incentive agreement, unless the date has been extended by the Director of the Arkansas Economic Development Commission.

(g)(1) If the annual payroll of the business applying for incentives under this subchapter is not met within two (2) years after signing the financial incentive agreement, the business may request in writing an extension of time to reach the required payroll threshold.

(2)(A) If the director and the Secretary of the Department of Finance and Administration find that the qualified business has presented compelling reasons for an extension of time, the director may grant an extension of time not to exceed four (4) years from the effective date of the financial incentive agreement.

(B) However, the extension on projects applying for incentives under § 15-4-2705 is limited to a two-year extension.

(3)(A) If a qualified business fails to reach the annual payroll threshold required under the approved financial incentive agreement, the qualified business is liable for the repayment of all incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met.

(B) If a qualified business fails to reach the annual payroll threshold required under an approved financial incentive agreement, the department has two (2) years to collect incentives previously received by the qualified business or file a lawsuit to enforce the repayment provisions.

(h)(1) If a qualified business fails to reach the investment threshold before the expiration of the four-year time limit, the qualified business is liable for the repayment of all incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the investment threshold was not met.

(2) If a qualified business fails to reach the investment threshold of this subchapter under an approved financial incentive agreement, the department has two (2) years to collect incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the investment threshold has not been met or file a lawsuit to enforce the repayment provisions.

(i)(1) If the annual payroll of a qualified business receiving incentives under this subchapter falls below the payroll threshold for qualification in a year subsequent to the year in which it initially qualified for the incentive, the incentives outlined in the financial incentive agreement shall be terminated unless a written application for an extension of incentives explaining why the payroll has fallen below the level required for qualification has been filed with and approved by the commission.

(2) The director and the secretary may approve the request for extension of time, not to exceed two (2) years, for the qualified business to bring the payroll back up to the requisite threshold amount and may approve the continuation of incentives during the period the extension is granted.

(3)(A) If a qualified business fails to reach the payroll threshold before the expiration of the two (2) years or the time period established by a subsequent extension of time, the qualified business is liable for the repayment of all incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met.

(B) If a qualified business fails to reach the payroll threshold required under an approved financial incentive agreement, the department has two (2) years to collect incentives previously received by the qualified business or file a lawsuit to enforce the repayment provisions.

(j)(1) If a qualified business fails to reach the average hourly wage threshold for incentives under this subchapter as specified in an approved financial incentive agreement, the qualified business is liable for the repayment of all incentives previously received by the qualified business for which the average hourly wage threshold has not been met.

(2) If a qualified business fails to meet the hourly wage threshold, the department has two (2) years to collect incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the average hourly wage threshold has not been met or file a lawsuit to enforce the repayment provisions.

(k)(1) Eligible businesses whose qualification depends on receiving either fifty-one percent (51%) or seventy-five percent (75%) of their sales revenue from out-of-state customers shall meet this requirement within three (3) years from the approval date of their financial incentive agreement.

(2)(A) If the requirement under subdivision (k)(1) of this section is not met within three (3) years of the approved financial incentive agreement, the qualified business may request in writing an extension of time to reach the required sales threshold.

(B) If the director finds that the qualified business has presented compelling reasons for an extension of time, the director may grant an extension of time not to exceed an additional two (2) years.

(l)(1) If a qualified business fails to meet the out-of-state revenue requirements of this subchapter under the specified deadlines in the approved financial incentive agreement, the qualified business is liable for the repayment of all incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the sales threshold has not been met.

(2) If a qualified business fails to meet the out-of-state revenue requirements, the department has two (2) years to collect incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the sales threshold has not been met or file a lawsuit to enforce the repayment provisions.

(m)(1) If a qualified business fails to notify the department that the annual payroll of the qualified business has fallen below the payroll

threshold for qualification for and retention of any incentive authorized by this subchapter, the qualified business is liable for the repayment of all incentives that were paid to the qualified business and that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met after it no longer qualified for the incentives.

(2) If a qualified business fails to notify the department that the qualified business has fallen below the payroll threshold, the department has two (2) years to collect incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met or file a lawsuit to enforce the repayment provisions.

(3) Interest shall also be due at the rate of ten percent (10%) per annum.

(n)(1) For a qualified business taking advantage of one (1) or more of the investment incentives offered in § 15-4-2706, if the project costs exceed the initial project cost estimate included in the approved financial incentive agreement, the qualified business shall submit an amended project plan to include updated cost figures as soon as the cost overrun is recognized.

(2)(A) An amendment that exceeds twenty-five percent (25%) of the original financial incentive agreement estimate shall not be approved and shall be submitted as a new project.

(B) An amendment shall not change the start date of the original project.

(o)(1) The department may obtain whatever information is necessary from a qualified business and from the Division of Workforce Services to verify that a qualified business is complying with the terms of the financial incentive agreements and reporting accurate information concerning investments, payrolls, wages, and out-of-state revenues to the department.

(2) The department shall provide the information obtained under subdivision (o)(1) of this section to the director upon request by the director.

(p) The department may file a lawsuit in the Pulaski County Circuit Court or the circuit court in any county where a qualified business is located to enforce the repayment provisions of this subchapter.

(q)(1) If a qualified business fails to satisfy or maintain any other requirement or threshold of this subchapter, the qualified business is liable for the repayment of all incentives that were paid to the qualified business after it no longer qualified.

(2) If a qualified business fails to comply with the requirements or thresholds of this subchapter, the department has two (2) years to collect incentives previously received by the qualified business for noncompliant financial incentive agreements or file a lawsuit to enforce the repayment provisions.

(r) If a repayment is required as a result of not complying with the requirements or thresholds of this subchapter, interest shall be due at the rate of ten percent (10%) per annum.

History. Acts 2003, No. 182, § 1; 2005, No. 1296, §§ 9-12; 2009, No. 625, § 2; 2009, No. 716, § 12; 2019, No. 327, § 1; 2019, No. 910, §§ 415-417.

Publisher's Notes. For text of section effective January 1, 2023, see the following version.

Amendments. The 2019 amendment by No. 327 rewrote the section.

The 2019 amendment by No. 910, throughout the section, substituted "Di-

rector of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" and substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration".

15-4-2711. Administration. [Effective January 1, 2023.]

(a) A person claiming an incentive under this subchapter is a "taxpayer" within the meaning of § 26-18-104 and is subject to all applicable provisions of that section.

(b) Administration of § 15-4-2706(c) shall be under the Arkansas Tax Procedure Act, § 26-18-101 et seq., and the Independent Tax Appeals Commission Act, § 26-18-1101 et seq.

(c)(1) All claims for sales and use tax refunds under § 15-4-2706(d) and (e) shall be filed annually with the Department of Finance and Administration within three (3) years from the date of the qualified purchase or purchases.

(2) Claims filed after three (3) years from the date of the qualified purchase or purchases shall be denied.

(d)(1) The time limitation for § 15-4-2706(d) and (e) for filing claims shall be tolled if:

(A) A qualified business fails to pay sales tax on an item that was taxable; and

(B) The applicable tax is subsequently assessed as a result of an audit by the department.

(2) All claims for sales and use tax refunds relating to an audited purchase are entitled to a refund of interest paid on the amount of tax assessed on the audited purchase if a refund is approved for the purchase.

(e) A qualified business shall reach the investment thresholds under § 15-4-2706 within four (4) years from the date of the approved financial incentive agreement.

(f)(1) All claims for payroll rebate payments under § 15-4-2707 shall be certified to the department and shall be recertified annually thereafter during the term of the financial incentive agreement.

(2) Failure to annually certify or recertify payroll figures and claim the rebate payment shall result in:

(A) A ten-percent reduction of the earned rebate if not claimed within one (1) year from the end of the tax year in which the rebate was earned;

(B) A one hundred percent (100%) forfeiture of the earned rebate if not claimed within two (2) years from the end of the tax year in which the rebate was earned; or

(C) Termination of the financial incentive agreement if an initial certification has not been filed with the department within four (4) years after the date of the approved financial incentive agreement, unless the date has been extended by the Director of the Arkansas Economic Development Commission.

(g)(1) If the annual payroll of the business applying for incentives under this subchapter is not met within two (2) years after signing the financial incentive agreement, the business may request in writing an extension of time to reach the required payroll threshold.

(2)(A) If the director and the Secretary of the Department of Finance and Administration find that the qualified business has presented compelling reasons for an extension of time, the director may grant an extension of time not to exceed four (4) years from the effective date of the financial incentive agreement.

(B) However, the extension on projects applying for incentives under § 15-4-2705 is limited to a two-year extension.

(3)(A) If a qualified business fails to reach the annual payroll threshold required under the approved financial incentive agreement, the qualified business is liable for the repayment of all incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met.

(B) If a qualified business fails to reach the annual payroll threshold required under an approved financial incentive agreement, the department has two (2) years to collect incentives previously received by the qualified business or file a lawsuit to enforce the repayment provisions.

(h)(1) If a qualified business fails to reach the investment threshold before the expiration of the four-year time limit, the qualified business is liable for the repayment of all incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the investment threshold was not met.

(2) If a qualified business fails to reach the investment threshold of this subchapter under an approved financial incentive agreement, the department has two (2) years to collect incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the investment threshold has not been met or file a lawsuit to enforce the repayment provisions.

(i)(1) If the annual payroll of a qualified business receiving incentives under this subchapter falls below the payroll threshold for qualification in a year subsequent to the year in which it initially qualified for the incentive, the incentives outlined in the financial incentive agreement shall be terminated unless a written application for an extension of incentives explaining why the payroll has fallen below the level required for qualification has been filed with and approved by the Arkansas Economic Development Commission.

(2) The director and the secretary may approve the request for extension of time, not to exceed two (2) years, for the qualified business

to bring the payroll back up to the requisite threshold amount and may approve the continuation of incentives during the period the extension is granted.

(3)(A) If a qualified business fails to reach the payroll threshold before the expiration of the two (2) years or the time period established by a subsequent extension of time, the qualified business is liable for the repayment of all incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met.

(B) If a qualified business fails to reach the payroll threshold required under an approved financial incentive agreement, the department has two (2) years to collect incentives previously received by the qualified business or file a lawsuit to enforce the repayment provisions.

(j)(1) If a qualified business fails to reach the average hourly wage threshold for incentives under this subchapter as specified in an approved financial incentive agreement, the qualified business is liable for the repayment of all incentives previously received by the qualified business for which the average hourly wage threshold has not been met.

(2) If a qualified business fails to meet the hourly wage threshold, the department has two (2) years to collect incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the average hourly wage threshold has not been met or file a lawsuit to enforce the repayment provisions.

(k)(1) Eligible businesses whose qualification depends on receiving either fifty-one percent (51%) or seventy-five percent (75%) of their sales revenue from out-of-state customers shall meet this requirement within three (3) years from the approval date of their financial incentive agreement.

(2)(A) If the requirement under subdivision (k)(1) of this section is not met within three (3) years of the approved financial incentive agreement, the qualified business may request in writing an extension of time to reach the required sales threshold.

(B) If the director finds that the qualified business has presented compelling reasons for an extension of time, the director may grant an extension of time not to exceed an additional two (2) years.

(1)(1) If a qualified business fails to meet the out-of-state revenue requirements of this subchapter under the specified deadlines in the approved financial incentive agreement, the qualified business is liable for the repayment of all incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the sales threshold has not been met.

(2) If a qualified business fails to meet the out-of-state revenue requirements, the department has two (2) years to collect incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the sales thresh-

old has not been met or file a lawsuit to enforce the repayment provisions.

(m)(1) If a qualified business fails to notify the department that the annual payroll of the qualified business has fallen below the payroll threshold for qualification for and retention of any incentive authorized by this subchapter, the qualified business is liable for the repayment of all incentives that were paid to the qualified business and that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met after it no longer qualified for the incentives.

(2) If a qualified business fails to notify the department that the qualified business has fallen below the payroll threshold, the department has two (2) years to collect incentives previously received by the qualified business that were conditioned on the approved financial incentive agreement for which the payroll threshold has not been met or file a lawsuit to enforce the repayment provisions.

(3) Interest shall also be due at the rate of ten percent (10%) per annum.

(n)(1) For a qualified business taking advantage of one (1) or more of the investment incentives offered in § 15-4-2706, if the project costs exceed the initial project cost estimate included in the approved financial incentive agreement, the qualified business shall submit an amended project plan to include updated cost figures as soon as the cost overrun is recognized.

(2)(A) An amendment that exceeds twenty-five percent (25%) of the original financial incentive agreement estimate shall not be approved and shall be submitted as a new project.

(B) An amendment shall not change the start date of the original project.

(o)(1) The department may obtain whatever information is necessary from a qualified business and from the Division of Workforce Services to verify that a qualified business is complying with the terms of the financial incentive agreements and reporting accurate information concerning investments, payrolls, wages, and out-of-state revenues to the department.

(2) The department shall provide the information obtained under subdivision (o)(1) of this section to the director upon request by the director.

(p) The department may file a lawsuit in the Pulaski County Circuit Court or the circuit court in any county where a qualified business is located to enforce the repayment provisions of this subchapter.

(q)(1) If a qualified business fails to satisfy or maintain any other requirement or threshold of this subchapter, the qualified business is liable for the repayment of all incentives that were paid to the qualified business after it no longer qualified.

(2) If a qualified business fails to comply with the requirements or thresholds of this subchapter, the department has two (2) years to collect incentives previously received by the qualified business for

noncompliant financial incentive agreements or file a lawsuit to enforce the repayment provisions.

(r) If a repayment is required as a result of not complying with the requirements or thresholds of this subchapter, interest shall be due at the rate of ten percent (10%) per annum.

History. Acts 2003, No. 182, § 1; 2005, No. 1296, §§ 9-12; 2009, No. 625, § 2; 2009, No. 716, § 12; 2019, No. 327, § 1; 2019, No. 910, §§ 415-417; 2021, No. 593, § 1.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the preceding version.

Amendments. The 2019 amendment by No. 327 rewrote the section.

The 2019 amendment by No. 910, throughout the section, substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" and substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration".

The 2021 amendment, in (a), substituted "claiming an incentive under this subchapter is" for "claiming credit under

§ 15-4-2706(c) is", and deleted "(16)" following "§ 26-18-104"; and added "and the Independent Tax Appeals Commission Act, § 26-18-1101 et seq." in (b).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 [Acts 2021, No. 586] is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 [Acts 2021, No. 586] is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly."

15-4-2712. Restrictions.

(a) Except as provided in subsection (b) of this section, the incentives established by this subchapter may be combined.

(b)(1) The investment tax credit authorized in § 15-4-2706(c) shall not be combined with the sales and use tax refund authorized in § 15-4-2706(d) for the same project.

(2) The following incentives for targeted businesses may be combined with each other for the same project as long as multiple incentives are not claimed for the same expenditures but shall not be combined with any other incentives authorized in this subchapter during the period in which the qualified business receives incentives under this subchapter:

(A) The investment tax credit authorized under § 15-4-2706(b)(7) may be combined with:

(i) The research and development income tax credits authorized under § 15-4-2708(b); and

(ii) Either the:

(a) Payroll rebate program authorized under § 15-4-2707(e); or

(b) Payroll tax credit program authorized under § 15-4-2709;

(B) The sales and use tax refund authorized under § 15-4-2706(e) may be combined with:

(i) The research and development income tax credits authorized under § 15-4-2708(b); and

(ii) Either the:

(a) Payroll rebate program authorized under § 15-4-2707(e); or

(b) Payroll tax credit program authorized under § 15-4-2709;

(C) The payroll rebate program authorized under § 15-4-2707(e) may be combined with:

(i) The research and development income tax credits authorized under § 15-4-2708(b); and

(ii) Either the:

(a) Investment tax credit program authorized under § 15-4-2706(b)(7); or

(b) Sales and use tax refund program authorized under § 15-4-2706(e);

(D) The payroll income tax credit authorized under § 15-4-2709 may be combined with:

(i) The research and development income tax credits authorized under § 15-4-2708(b); and

(ii) Either the:

(a) Investment tax credit authorized under § 15-4-2706(b)(7); or

(b) Sales and use tax refund program authorized under § 15-4-2706(e); and

(E) The research and development income tax credits authorized under § 15-4-2708(b) may be combined with:

(i) Either the:

(a) Payroll rebate program authorized under § 15-4-2707(e); or

(b) Payroll tax credit program authorized under § 15-4-2709; and

(ii) Either the:

(a) Investment tax credit program authorized under § 15-4-2706(b)(7); or

(b) Sales and use tax refund program authorized under § 15-4-2706(e).

(3) The investment tax credit authorized in § 15-4-2706(b) shall not be combined with the sales and use tax credit authorized in § 15-4-2706(e) for the same project.

(4) The job-creation tax credit authorized in § 15-4-2705 shall not be combined with the payroll rebate program authorized in § 15-4-2707.

(5) The investment tax credit authorized in § 15-4-2706(b) shall not be combined with the sales and use tax refund authorized in § 15-4-2706(d) for the same project.

(6) The investment tax credit authorized under § 15-4-2706(b) shall not be combined with the sales and use tax credit authorized under § 15-4-2706(c) for the same project.

(c) The following are discretionary incentives and are not available unless offered by the Arkansas Economic Development Commission:

- (1) The payroll rebate program authorized in § 15-4-2707;
- (2) The job-creation tax credit authorized in § 15-4-2709;
- (3) The investment tax credit authorized in § 15-4-2706(b);
- (4) The sales and use tax refund authorized in § 15-4-2706(e); and
- (5) The research and development tax credits authorized in § 15-4-2708(a)-(c).

History. Acts 2003, No. 182, § 1; 2009, No. 716, § 13; 2019, No. 327, § 1.

Amendments. The 2019 amendment rewrote (b)(2) through (b)(5); added (b)(6);

and substituted “tax credits authorized in § 15-4-2708(a)-(c)” for “tax credit authorized in § 15-4-2708(c)” in (c)(5).

15-4-2714. [Repealed.]

Publisher’s Notes. This section, concerning coordination with other economic development programs, was repealed by Acts 2019, No. 327, § 2, effective July 24,

2019. The section was derived from Acts 2003, No. 182, § 1; 2005, No. 1962, § 62; 2017, No. 374, § 9.

SUBCHAPTER 29 — ARKANSAS WORKFORCE INVESTMENT BOARD AND ADULT EDUCATION STUDY COMMITTEE

[REPEALED.]

SECTION.

15-4-2901, 15-4-2902. [Repealed.]

15-4-2901, 15-4-2902. [Repealed.]

Publisher’s Notes. This subchapter, concerning the Arkansas Workforce Investment Board and Adult Education Study Committee, was repealed by Acts 2017, No. 374, § 10. The subchapter was derived from the following sources:

15-4-2901. Acts 2003, No. 1204, § 1; 2015, No. 1115, § 24.

15-4-2902. Acts 2003, No. 1204, § 2.

SUBCHAPTER 30 — ARKANSAS GENERAL OBLIGATION ECONOMIC DEVELOPMENT SUPERPROJECTS BOND AND PROJECT FUNDING ACT

SECTION.

15-4-3005. State of Arkansas Economic Development General Obligation Bonds.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-4-3005. State of Arkansas Economic Development General Obligation Bonds.

(a) The Arkansas Development Finance Authority may issue bonds of the State of Arkansas, to be known as "State of Arkansas Economic Development General Obligation Bonds", in total principal amount not to exceed four hundred million dollars (\$400,000,000) for the purposes authorized in this subchapter.

(b) The bonds may be issued in one (1) or more series, as required, subject to the conditions and in compliance with the procedures provided by this subchapter.

(c) The total principal amount of bonds to be issued during any fiscal biennium shall not exceed sixty million dollars (\$60,000,000) unless the General Assembly shall have authorized by law a greater principal amount to be issued during a fiscal biennium.

(d) Before any bonds may be issued during any fiscal biennium, the Arkansas Economic Development Commission and the authority shall submit the plan to the Legislative Council and the Governor.

(e)(1) Upon receipt of the plan, the Governor shall confer with the Chief Fiscal Officer of the State concerning whether, after utilization of the balance in the Economic Development Superprojects Project Fund, any amount of general revenues will be required to be set aside for payment of debt service requirements in connection with the bonds during either year of the fiscal biennium in which the bonds are to be issued and, if any general funds are required to be used, whether such a use would cause an undue hardship upon any agency or program supported from the general revenues under the Revenue Stabilization Law, § 19-5-101 et seq.

(2) The commission's written plan shall set forth:

(A) A description of the project or projects to be financed with the proceeds derived from the sale of the bonds;

(B) A description of the economic impact and cost benefit of the proposed project or projects;

(C) The amount of bonds necessary to be issued to defray project costs and a budget of those project costs;

(D) A certification by the Director of the Arkansas Economic Development Commission that each project to benefit from the expenditure of the proceeds of the bonds consists of an investment in the state of not less than four hundred million dollars (\$400,000,000) and the creation of no fewer than four hundred (400) new permanent full-time jobs; and

(E) A tentative time schedule setting forth the period of time during which the sum requested is to be expended.

(3) The authority's written plan shall set forth:

(A) A debt service table showing the annual principal and interest requirements for any bonds outstanding and to be issued; and

(B) A recommended plan of marketing for the bonds and proposed schedule of issuance dates based on the commission's proposed spending schedule.

(f)(1) Upon the conclusion of the conference and after obtaining the advice of the Legislative Council, the Governor may by proclamation authorize the authority to proceed with the issuance of the bonds, in one (1) or more series, up to the maximum principal amount approved by the Governor for the fiscal biennium.

(2) If the Legislative Council fails to advise the Governor within thirty (30) calendar days after receipt of the request for advice, the Governor may proceed to issue the proclamation.

(g)(1) If the Governor declines or refuses to give his or her approval for the issuance of the bonds, the Governor shall promptly notify the authority in writing, and the bonds shall not be issued.

(2) The authority may resubmit a request to the Governor for the approval of the issuance of the bonds.

(3) The issue as resubmitted to the Governor shall be dealt with in the same manner as provided for the initial request to issue the bonds.

History. Acts 2003, No. 1751, § 5; 2019, No. 910, § 418.

Amendments. The 2019 amendment substituted "Director of the Arkansas Eco-

nomic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (e)(2)(D).

SUBCHAPTER 31 — NONPROFIT INCENTIVE ACT OF 2005

[REPEALED.]

SECTION.

15-4-3101 — 15-4-3107. [Repealed.]

15-4-3101 — 15-4-3107. [Repealed.]

Publisher's Notes. This subchapter, concerning the Nonprofit Incentive Act of 2005, was repealed by Acts 2017, No. 208,

§ 1. The subchapter was derived from the following sources:

15-4-3101. Acts 2005, No. 1277, § 1.

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| 15-4-3102. Acts 2005, No. 1277, § 1. | 15-4-3105. Acts 2005, No. 1277, § 1; |
| 15-4-3103. Acts 2005, No. 1277, § 1; | 2009, No. 795, § 3. |
| 2009, No. 795, § 1. | 15-4-3106. Acts 2005, No. 1277, § 1; |
| 15-4-3104. Acts 2005, No. 1277, § 1; | 2009, No. 795, § 4. |
| 2009, No. 795, § 2. | 15-4-3107. Acts 2005, No. 1277, § 1. |

SUBCHAPTER 32 — ARKANSAS AMENDMENT 82 IMPLEMENTATION ACT

SECTION.

- 15-4-3202. Definitions.
 15-4-3203. Amendment 82 project qualification.
 15-4-3204. Amendment 82 agreement.

SECTION.

- 15-4-3206. Compliance time period — Audit requirements.
 15-4-3207. Bond principal.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-4-3202. Definitions.

As used in this subchapter:

(1) “Amendment 82 agreement” means a contract between the state and a sponsor under which the state is to provide Amendment 82 bond financing in exchange for the sponsor’s agreeing to make an investment and to locate a new business or substantially expand an existing business in the State of Arkansas in accordance with the requirements of Arkansas Constitution, Amendment 82, and this subchapter. At a minimum, the agreement shall contain the following provisions:

(A) The infrastructure needs or other needs, or both, to be provided by the state in support of the qualified Amendment 82 project and financed under Arkansas Constitution, Amendment 82, and this subchapter;

(B) A description of all other economic incentives to be provided by the state in connection with the qualified Amendment 82 project;

(C) The commitments of the sponsor, if any, with regard to investment and job creation associated with the qualified Amendment 82 project, including timetables for meeting and maintaining any investment and job creation requirements;

(D) The agreement of the sponsor to make all specified records pertaining to the sponsor’s commitments available for annual audit by the Chief Fiscal Officer of the State and, upon request, but no more

often than annually, by the Office of Economic and Tax Policy of the Bureau of Legislative Research or a person or entity retained by the office;

(E) Performance benchmarks and economic goals of the qualified Amendment 82 project; and

(F) The penalties to be applied if the sponsor does not satisfy its commitments under the Amendment 82 agreement;

(2) "Average hourly wage" means the weekly earnings, excluding overtime, bonuses, and company-paid benefits, of all new full-time permanent employees hired after the execution date of the Amendment 82 agreement divided by forty (40) and then divided by the number of new full-time permanent employees;

(3) "Bonds" means general obligation bonds issued under Arkansas Constitution, Amendment 82, and this subchapter;

(4) "Chief Fiscal Officer of the State" means the Chief Fiscal Officer of the State of Arkansas, who is also the Secretary of the Department of Finance and Administration;

(5) "Contractual employee" means an employee who:

(A) May be included in the payroll calculations of a sponsor qualifying for bond financing under Arkansas Constitution, Amendment 82, and this subchapter and is under the direct supervision of the sponsor receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter, but is an employee of a business other than the one receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter;

(B) Otherwise meets the requirements of a new full-time permanent employee of the sponsor receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter;

(C) Receives an average hourly wage that exceeds the lesser of:

(i) The county average hourly wage for the county in which the position or job is located; or

(ii) The state average hourly wage; and

(D) Receives a benefits package, including, without limitation, health and retirement benefits comparable to direct employees of the sponsor receiving benefits under Arkansas Constitution, Amendment 82, and this subchapter;

(6) "County average hourly wage" means the weighted average weekly earnings for Arkansas residents in all industries countywide as calculated by the Division of Workforce Services in its most recent Annual Covered Employment and Earnings publication, divided by forty (40);

(7) "Debt service" means principal, interest, redemption premiums, if any, and servicing fees relative to the bonds, including without limitation:

(A) Trustees' fees;

(B) Paying agents' fees;

(C) Dissemination agents' fees;

(D) Administrative fees;

- (E) Issuer's fees;
 - (F) Guarantee fees;
 - (G) Counsel fees; and
 - (H) Fees related to arbitrage compliance or rebate calculations;
- (8)(A) "Existing employee" means an employee hired by a sponsor before the date the Amendment 82 agreement was executed.

(B) An existing employee may be considered a new full-time permanent employee for purposes of Arkansas Constitution, Amendment 82, and this subchapter only if:

(i) The position or job filled by the existing employee was created in accordance with the Amendment 82 agreement; and

(ii) The position vacated by the existing employee was filled by a subsequent employee who was not an existing employee, or no subsequent employee will be hired because the sponsor no longer conducts the particular business activity requiring that employee;

(9) "Federal Deposit Insurance Corporation" means the federal agency by that name or any successor agency that insures deposits of commercial banks;

(10) "General revenues" means the revenues of the state described and enumerated in § 19-6-201 or in any successor law;

(11) "Infrastructure needs" means:

- (A) Land acquisition;
- (B) Site preparation;
- (C) Road and highway improvements;
- (D) Rail spur, railroad, and railport construction;
- (E) Water service;
- (F) Wastewater treatment;
- (G) Employee training, which may include equipment used for the training;
- (H) Environmental mitigation or reclamation;
- (I) Training and research facilities and the necessary equipment for the facilities; or

(J) Any other facility, activity, or infrastructure determined by the General Assembly to fall within the parameters of Arkansas Constitution, Amendment 82;

(12)(A) "Investment" means money expended by the sponsor on capital assets physically located within the state and directly related to the qualified Amendment 82 project, but which are not required to be owned by the sponsor.

(B) "Investment" shall not include amounts expended in aid of the qualified Amendment 82 project by the state under Arkansas Constitution, Amendment 82, and this subchapter, or otherwise, or amounts expended in aid of the qualified Amendment 82 project by a local entity, however financed, which are not required to be repaid by the sponsor;

(13) "Letter of commitment" means a binding agreement signed by a sponsor and the Arkansas Economic Development Commission that at a minimum contains the following provisions:

(A) A determination by the commission that the sponsor has the financial capability, business history, and corporate intent to implement and maintain a qualified Amendment 82 project;

(B) A commitment by the sponsor that the sponsor intends to locate a new business or substantially expand an existing business in the State of Arkansas and a description of any other commitments made by the sponsor;

(C) A tentative timetable for development of the proposed project;

(D) The consequences if the sponsor does not satisfy its obligations under the letter of commitment; and

(E) A statement from the commission that its obligation under the letter of commitment is limited to presenting the letter of commitment and supporting documentation to the Governor, who may or may not elect to present the proposal to the General Assembly for its consideration;

(14) "Local entity" means any nonprofit corporation, county, city of the first class, city of the second class, incorporated town, improvement district, school district, or any agency or instrumentality of the state, including the Arkansas Development Finance Authority and the commission;

(15) "Nationally recognized rating agency" means Moody's Investors Service, Inc., Standard & Poor's Ratings Services, Fitch Ratings, Inc., or any other nationally recognized rating agency approved by the Treasurer of State;

(16) "New full-time permanent employee" means a position or job that is created under an Amendment 82 agreement and that is filled by one (1) employee or contractual employee who is an Arkansas taxpayer. In order to count toward the job creation requirements of Arkansas Constitution, Amendment 82, and this subchapter:

(A) The position or job held by the employee must be filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours' work per week;

(B) The employee must receive an average hourly wage that exceeds the lesser of:

(i) The county average hourly wage for the county in which the position or job is located; or

(ii) The state average hourly wage;

(C) The employee must receive a benefits package, including without limitation, health and retirement benefits; and

(D) The employee is not an existing employee;

(17)(A) "New job" means a position for a new full-time permanent employee created at a qualified Amendment 82 project in the state.

(B) "New job" shall not include a job filled by an existing employee;

(18) "Other needs" means financial or other noninfrastructure incentives that are approved by the General Assembly as part of a qualified Amendment 82 project and may include, without limitation, transactions that include loans, grants, or lease arrangements;

(19) "Outstanding bonded indebtedness" means the principal balance of all bonds issued under Arkansas Constitution, Amendment 82, and this subchapter;

(20) "Project costs" means:

(A) All or any part of the costs of infrastructure needs or other needs for a proposed or qualified Amendment 82 project and costs incidental or appropriate to the proposed or qualified Amendment 82 project, including without limitation:

(i) All costs incurred by the sponsor in developing a proposed project or qualified Amendment 82 project, whether before or after the Amendment 82 agreement has been executed and bonds have been issued under this subchapter; and

(ii) All costs to the commission associated with the development or operation of a qualified Amendment 82 project in a supervisory capacity; and

(B) Costs incidental or appropriate to the financing of the proposed or qualified Amendment 82 project, including without limitation:

(i) Capitalized interest;

(ii) Costs of issuance;

(iii) Funding of appropriate reserves for the bonds;

(iv) Loan fees;

(v) Guarantee fees;

(vi) Commitment fees;

(vii) Grant administration fees;

(viii) Surety bond premiums;

(ix) Bond insurance;

(x) Credit enhancement;

(xi) Fees of nationally recognized rating agencies;

(xii) Liquidity facilities fees; and

(xiii) Costs for engineering, legal, and other administrative and consultant services;

(21) "Proposed project" means a project which if developed as proposed would meet the criteria for a qualified Amendment 82 project and is therefore properly considered under Arkansas Constitution, Amendment 82, and this subchapter;

(22) "Qualified Amendment 82 project" means a proposed project that has satisfied the requirements of Arkansas Constitution, Amendment 82, and this subchapter with respect to which the General Assembly has approved the issuance of bonds under Arkansas Constitution, Amendment 82, and this subchapter;

(23) "Related entity" means any entity or person that bears a relationship to the sponsor as described in 26 U.S.C. § 267, as in existence on January 1, 2005;

(24) "Sponsor" means a sole proprietor, partnership, corporation, limited liability company, joint venture, or association taxable as a business entity, or any combination of these entities, that qualifies as an eligible business under the Consolidated Incentive Act of 2003, § 15-4-2701 et seq.; and

(25) “State average hourly wage” means the weighted average weekly earnings for Arkansas residents in all industries statewide as calculated by the Division of Workforce Services in its most recent Annual Covered Employment and Earnings publication, divided by forty (40).

History. Acts 2005, No. 1981, § 1; 2011, No. 1047, §§ 1, 2; 2015, No. 593, §§ 1-4; 2017, No. 685, § 2; 2019, No. 910, §§ 419-421.

Amendments. The 2017 amendment inserted “railroad, and railport” in (11)(D); and added “or reclamation” in (11)(H).

The 2019 amendment substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration” in (4); and substituted “Division of Workforce Services” for “Department of Workforce Services” in (6) and (25).

15-4-3203. Amendment 82 project qualification.

(a)(1)(A) In exercising its responsibilities under Arkansas Constitution, Amendment 82, § 1, the General Assembly delegates, authorizes, and directs the Arkansas Economic Development Commission, the Arkansas Development Finance Authority, and the Chief Fiscal Officer of the State to undertake a review of all proposed projects following the procedures described in this section.

(B) In order to be considered for qualification, a sponsor must fall within the definition of an “eligible business”, as defined in § 15-4-2703.

(2) If the Governor refers a proposed project to the General Assembly under subsection (h) of this section, the commission and the authority shall prepare and provide to each member of the General Assembly the reports described in subsection (i) of this section, after which the General Assembly shall make the final and definitive decisions concerning the proposed project as set forth in subsection (j) of this section.

(b)(1) As the lead economic development agency for the State of Arkansas, the commission may propose the use of Amendment 82 bonds to finance infrastructure and other needs in any combination in order to attract proposed projects to the State of Arkansas.

(2) In addition to powers conferred under other laws, the commission may take any reasonable action necessary to carry out the purposes of Arkansas Constitution, Amendment 82, and this subchapter.

(3) The proposed use of Amendment 82 financing by the commission shall not prohibit the commission, the state, or any local entity from using any other available economic incentives in connection with a proposed project.

(c) The commission shall initiate the process of selecting a proposed project for referral to the General Assembly by performing an economic impact and cost-benefit analysis to evaluate the capability of a sponsor and the feasibility of a proposed project and to determine if the proposed project has the potential to be a qualified Amendment 82 project. The economic impact and cost-benefit analysis shall include all other economic incentives offered by the state in connection with the proposed project.

(d) If the commission determines that a proposed project has the potential to become a qualified Amendment 82 project, the commission shall refer the proposal and the commission's findings to the authority so that the authority may perform an initial assessment of the feasibility and impact of issuing Amendment 82 bonds in connection with the proposed project, including the state's ability to cover projected debt service obligations and the impact on the overall rating of the state's general obligation bonded indebtedness, including without limitation, bonds issued under Arkansas Constitution, Amendment 82, and this subchapter.

(e) If the authority's initial assessment is that Amendment 82 bond financing for the proposed project is feasible, the authority shall notify the commission, and the commission shall refer the proposal and the findings of the commission and the authority to the Chief Fiscal Officer of the State for review of the impact of the proposed Amendment 82 bond financing on any agency or program supported from the general revenues under the Revenue Stabilization Law, § 19-5-101 et seq.

(f) If the Chief Fiscal Officer of the State's initial assessment is that the proposed Amendment 82 financing will not have a substantially negative impact on any agency or program supported from general revenues, then:

(1) The Chief Fiscal Officer of the State shall notify the commission; and

(2) The commission shall make a formal proposal to the sponsor detailing the state's proposed offer with respect to Amendment 82 financing and all other economic incentives offered by the state in connection with the proposed project.

(g)(1) If the sponsor of a proposed project determines to accept Amendment 82 financing, then the sponsor and the commission, on behalf of the state, shall sign a letter of commitment.

(2) The commission shall forward the letter of commitment and the findings and recommendations of the commission, the authority, and the Chief Fiscal Officer of the State to the Governor for review.

(3)(A) The commission shall also forward the letter of commitment, the findings and recommendations of the commission, the authority, and the Chief Fiscal Officer of the State, and all supporting documentation to the Office of Economic and Tax Policy of the Bureau of Legislative Research on behalf of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(B)(i) At the direction of the President Pro Tempore of the Senate or the Speaker of the House of Representatives, the office shall arrange for an independent confirmation of the economic impact and cost-benefit analysis performed by the commission or an independent economic impact and cost-benefit analysis of the proposed project to be completed within twenty (20) working days after the receipt of the letter of commitment.

(ii) All information forwarded to the President Pro Tempore of the Senate and the Speaker of the House of Representatives by the

commission and any resulting information related to the confirmation of the commission's economic impact and cost-benefit analysis or independent economic impact and cost-benefit analysis:

(a) Shall be considered working papers of the President Pro Tempore of the Senate and the Speaker of the House of Representatives under § 25-19-105(b)(7) and shall not be open to inspection and copying by any citizen of the State of Arkansas; and

(b) Is specifically exempt from the requirements of § 25-19-105(a).

(h) If the Governor determines that it is in the best interest of the state to pursue Amendment 82 financing for the proposed project, the Governor shall refer the proposed project to the General Assembly in regular session, fiscal session, or extraordinary session in order for the General Assembly to consider whether to approve the issuance of bonds under Arkansas Constitution, Amendment 82, and this subchapter.

(i)(1) In order to expedite review by the General Assembly, the commission and the authority shall prepare and provide to each member of the General Assembly the reports described in subdivisions (i)(2) and (3) of this section.

(2) The commission's report shall include:

(A) A description of the proposed project;

(B)(i) An itemization of the proposed infrastructure needs and other needs to be financed with the proceeds derived from the sale of Amendment 82 bonds.

(ii) The itemization shall include estimated costs and details to the maximum extent available at the time of the report;

(C) A description of all other economic incentives to be provided by the state in connection with the proposed project;

(D) A description of the economic impact and cost-benefit analyses of the proposed project for a period of at least ten (10) years that includes:

(i) The annual projected benefit to the state from increased sales and use tax and income tax revenue;

(ii) The annual projected cost to the state for each economic incentive offered to the sponsor in connection with the proposed project; and

(iii) The overall net present value benefit-to-cost ratio for the period of at least ten (10) years;

(E) The amount of bonds necessary to be issued to defray project costs and a budget of the project costs;

(F) A tentative time schedule setting forth the period of time during which the proceeds of the Amendment 82 bonds are to be expended;

(G) A statement by the Director of the Arkansas Economic Development Commission based on and outlining the:

(i) Terms of the letter of the commitment;

(ii) Estimated dollar amount of investment in the state from the proposed project; and

(iii) Estimated number of new jobs to be created by the proposed project;

(H) A copy of the signed letter of commitment for the proposed project; and

(I) A copy of the unexecuted Amendment 82 agreement for the proposed project.

(3) The authority's report shall include:

(A) A schedule of projected debt service, including all fees, showing the annual principal and interest requirements for any Amendment 82 bonds outstanding, if applicable, and the projected debt service for the Amendment 82 bonds proposed to be issued for the proposed project;

(B) A projected schedule of revenues, if any, to be received by the state from the sponsor in connection with its use of the infrastructure needs and other needs associated with the proposed project;

(C) An initial plan of marketing for the bonds and a proposed schedule of issuance dates, including without limitation, the number of series to be issued and an estimated timeline for the series based on the commission's proposed spending schedule; and

(D) A preliminary and estimated sources and uses table.

(j) If the General Assembly determines that the proposed project is of the nature intended by the electors of the state to be financed with Amendment 82 bonds and approves the Amendment 82 agreement, it shall take appropriate legislative action to:

(1) Declare the proposed project a qualified Amendment 82 project;

(2) Establish any additional parameters deemed necessary by the General Assembly for the general structure of the qualified Amendment 82 project, including without limitation, penalty provisions;

(3) Authorize the execution of the Amendment 82 agreement in substantially the same form as presented to the General Assembly; and

(4) Authorize the issuance of Amendment 82 bonds.

History. Acts 2005, No. 1981, § 1; 2009, No. 962, § 31; 2011, No. 1047, §§ 3, 4; 2015, No. 593, § 5; 2019, No. 910, § 422.

Amendments. The 2019 amendment

substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in the introductory language of (i)(2)(G).

15-4-3204. Amendment 82 agreement.

As soon as practicable after the General Assembly's approval of the issuance of bonds and before the Arkansas Development Finance Authority issues bonds, the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Director of the Arkansas Economic Development Commission, the President of the Arkansas Development Finance Authority, and the Chief Fiscal Officer of the State, all on behalf of the state, and the sponsor of the qualified Amendment 82 project shall execute the Amendment 82 agreement in substantially the same form as approved by the General Assembly.

History. Acts 2005, No. 1981, § 1; 2019, No. 910, § 423.

Amendments. The 2019 amendment substituted "Director of the Arkansas Eco-

nomic Development Commission" for "Executive Director of the Arkansas Economic Development Commission".

15-4-3206. Compliance time period — Audit requirements.

(a)(1) The Amendment 82 agreement shall specify a time period in which the sponsor must comply with the terms and conditions specified in the Amendment 82 agreement.

(2) Except as provided in subsection (b) of this section, the time period shall not exceed four (4) years from the date of enactment of related legislation under § 15-4-3203(j).

(3) If the sponsor does not comply with the applicable time period, then the penalty provisions set forth in the Amendment 82 agreement and under § 15-4-3203(j) shall apply.

(b)(1)(A) The sponsor may request a one-year extension of the time period specified in the Amendment 82 agreement by submitting to the Director of the Arkansas Economic Development Commission a written request with an explanation as to why the extension is necessary.

(B) The request shall be submitted at least ninety (90) days before the expiration of the time period specified in the Amendment 82 agreement.

(2)(A) Upon receipt of a request to extend the applicable time period, the director shall immediately notify the Secretary of the Department of Commerce, the Chief Fiscal Officer of the State, and the Governor.

(B) The director, the Secretary of the Department of Commerce, and the Chief Fiscal Officer of the State may approve a request for a one-year extension upon a determination that there is a valid economic reason for granting the extension.

(3) The sponsor shall be granted not more than three (3) one-year extensions of the applicable time period.

(c)(1) The sponsor shall maintain and make available records pertaining to items contained in the terms and agreements of the Amendment 82 agreement for annual audit by the Chief Fiscal Officer of the State and upon request no more often than annually by the Office of Economic and Tax Policy of the Bureau of Legislative Research or a person or entity retained by the office.

(2) The Arkansas Tax Procedure Act, § 26-18-101 et seq., shall apply to records maintained under this subsection and any audits conducted of the records, including any audit conducted through the office.

(3)(A) Records obtained or reviewed by the office under this section:

(i) Shall be considered working papers of the President Pro Tempore of the Senate and the Speaker of the House of Representatives under § 25-19-105(b)(7) and shall not be open to inspection and copying by any citizen of the State of Arkansas; and

(ii) Are specifically exempt from the requirements of § 25-19-105(a).

(B) However, a report of the audit shall be presented to the Legislative Council with respect to the status of the applicable qualified Amendment 82 project that details the sponsor's compliance with the provisions of the Amendment 82 agreement.

History. Acts 2005, No. 1981, § 1; 2011, No. 1047, § 5; 2019, No. 910, § 424.

Amendments. The 2019 amendment, in (b)(2)(A), substituted "Director of the Arkansas Economic Development Commission" for "executive director" and "Secretary of the Department of Commerce" for "President of the Arkansas Development Finance Authority"; and, in (b)(2)(B), deleted "executive" preceding "director" and substituted "Secretary of the Department of Commerce" for "the president".

for "President of the Arkansas Development Finance Authority"; and, in (b)(2)(B), deleted "executive" preceding "director" and substituted "Secretary of the Department of Commerce" for "the president".

15-4-3207. Bond principal.

Amendment 82 bonds may be issued to:

- (1) Finance project costs in an aggregate principal amount approved by the General Assembly without regard to any debt limitation; and
- (2) Refund outstanding Amendment 82 bonds in an aggregate principal amount approved by the Arkansas Development Finance Authority without regard to any debt limitation.

History. Acts 2005, No. 1981, § 1; 2015, No. 593, § 6; 2017, No. 685, § 3.

Amendments. The 2017 amendment

substituted "Bond" for "Maximum ceiling on bond" in the section heading; and re-wrote the section.

SUBCHAPTER 33 — EQUITY INVESTMENT INCENTIVE ACT OF 2007

SECTION.

15-4-3303. Eligibility for equity investment incentive.

15-4-3304. Application for an equity investment incentive tax credit.

SECTION.

15-4-3305. Award of an equity investment incentive tax credit.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-4-3303. Eligibility for equity investment incentive.

(a) Eligibility for the equity investment incentive tax credit under this subchapter is limited to investments in:

(1) Targeted businesses as defined in § 15-4-2703; or

(2) A business that receives assistance in the form of equity investments from capital investment funds that target early-stage businesses and start-up businesses, if the business:

(A) Pays not less than one hundred fifty percent (150%) of the lesser of the county average wage or the state average wage; and

(B) Meets at least two (2) of the following conditions:

(i) The business is in one (1) of the business sectors set forth in § 15-4-2703;

(ii) The business is identified in a local or regional economic development plan as the type of business targeted for recruitment or growth within the community or region;

(iii) The business is supported by a resolution of the city council or quorum court in the municipality or county in which the business is located or plans to locate;

(iv) The business is supported by business incubators certified under § 26-51-815(d);

(v) The business is supported by federal small business innovation research grants; or

(vi) The business is supported by technology development or seed capital investments made by instrumentalities of the state.

(b)(1) The award of the equity investment incentive tax credit to a qualified business under subsection (a) of this section shall be determined jointly at the discretion of the Director of the Arkansas Economic Development Commission with the advice of the Board of Directors of the Division of Science and Technology of the Arkansas Economic Development Commission and the President of the Arkansas Development Finance Authority.

(2) Only cash investments shall qualify for the equity investment incentive tax credit under this subchapter, including without limitation the initial principal amount of a qualifying convertible financing structure if the convertible financing structure is required to be converted to equity by the business receiving the investment no later than five (5) years from the date the convertible financing structure was consummated.

(3) A business that seeks eligibility for an equity investment incentive tax credit under this subchapter shall sign an equity investment incentive agreement with the Arkansas Economic Development Commission.

History. Acts 2007, No. 566, § 1; 2011, No. 829, § 1; 2015, No. 164, § 1; 2015 (1st Ex. Sess.), No. 7, § 99; 2015 (1st Ex. Sess.), No. 8, § 99; 2019, No. 910, § 425.

Amendments. The 2019 amendment

substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (b)(1).

15-4-3304. Application for an equity investment incentive tax credit.

(a) A business that seeks eligibility for an equity investment incentive tax credit under this subchapter shall file an application with the Arkansas Economic Development Commission.

(b) The application shall include:

(1) A business plan describing the proposed business for which an equity investment incentive tax credit is sought;

(2) A projection of the amount of capital being sought for the proposed business;

(3) If the application proposes to use a convertible financing structure, a clear statement concerning the timing and conditions under which the convertible financing structure converts into equity; and

(4) Other information requested jointly by the Director of the Arkansas Economic Development Commission and the President of the Arkansas Development Finance Authority.

(c)(1) The commission shall gather information necessary to determine the eligibility of a business that seeks an equity investment incentive tax credit and process the application.

(2) The commission shall share the application and all information concerning the business with the Arkansas Development Finance Authority and the Division of Science and Technology of the Arkansas Economic Development Commission for review and concurrence on whether or not an equity investment incentive is offered to the business.

(d)(1) If a business is notified of approval of an application for an equity investment incentive tax credit, the business shall sign an equity investment incentive agreement with the commission.

(2) After the equity investment incentive agreement has been signed by the business and the commission, the business may solicit investors and offer the equity investment incentive tax credit to the investors.

(e) For the equity investment tax credit to be awarded to an investor, the eligible business shall verify that all conditions to the award of an equity investment incentive tax credit stated in the equity investment incentive agreement have been met within the time set forth in the agreement.

History. Acts 2007, No. 566, § 1; 2011, No. 829, § 2; 2015, No. 164, § 2; 2015 (1st Ex. Sess.), No. 7, § 100; 2015 (1st Ex. Sess.), No. 8, § 100; 2019, No. 910, § 426.

Amendments. The 2019 amendment

substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (b)(4).

15-4-3305. Award of an equity investment incentive tax credit.

(a) A person or company that purchases an equity interest in a qualified business under § 15-4-3303(a) in any of the calendar years 2007 — 2028 is entitled to a credit against any state income tax liability that may be imposed on the person or company for any tax year,

beginning in the tax year in which the equity interest was purchased and for a period not to exceed nine (9) years beyond the tax year in which the equity interest was purchased.

(b) The credit against state income tax liability shall be determined in the following manner:

(1) The credit shall not exceed thirty-three and one-third percent (33 $\frac{1}{3}$ %) of the actual purchase price paid for the equity interest to the business, less any fees or commissions to underwriters or sales agents paid by the business;

(2) In any one (1) tax year, the credit allowed by this section shall not exceed fifty percent (50%) of the net Arkansas state income tax liability or premium tax liability of the taxpayer:

(A) After all other credits and reductions in tax have been calculated; and

(B) Before the credit allowed by this section is applied;

(3)(A) Any credit in excess of the amount allowed by subdivision (b)(2) of this section for any one (1) tax year may be carried forward and applied against Arkansas state income tax for the next-succeeding tax year and annually thereafter for a total period of nine (9) years next succeeding the year in which the equity interest in a business was purchased, subject to the provisions of subdivision (b)(2) of this section or until the credit is exhausted, whichever occurs first.

(B) The credit allowed by this section shall not be allowed for a tax year ending after December 31, 2037;

(4) If the total amount of credits applied for under this subchapter for the year exceed the cap stated in subsection (f) of this section, the Arkansas Economic Development Commission, when allocating credits under this subchapter for the particular applications that would exceed that cap and in order to not exceed the cap, shall first award credits to investors taking an equity interest through an equity purchase before credits may be allocated to investors that use a convertible financing structure for the investment; and

(5) An original purchaser of equity interests who seeks to qualify for the income tax credit or premium tax credit provided in this section shall obtain and attach to the income tax return or premium tax return for the years the credit is claimed a certified statement from the business stating:

(A) The name and address of the original purchaser;

(B) The tax identification number of the person entitled to the credit;

(C) The original date of purchase of the equity interest;

(D) The number and type of equity interests purchased;

(E) The amount paid by the original purchaser for the equity interest;

(F) The amount of the tax credit associated with the purchase of the equity interest; and

(G) The amount of dividends and distributions previously paid by the business to the purchaser.

(c)(1) A transferee from an original purchaser is entitled to the tax credit described in this section only to the extent the credit is still available to and has not previously been used by the transferor.

(2) A transferee of equity interests or tax credits who seeks to qualify for the income tax credit or premium tax credit provided in this section shall obtain and attach to the income tax return or premium tax return for the years the credit is claimed a certified statement from the business stating:

(A) The name and address of the original purchaser and all transferees;

(B) The tax identification number of all persons entitled to any portion of the original tax credit;

(C) The original date the equity interest was purchased;

(D) The number and type of equity interests purchased;

(E) The amount paid by the original purchaser for the equity interest;

(F) The amount of the tax credit associated with the purchase of the equity interest;

(G) The amount of the tax credit associated with the original purchase used by all previous owners of the equity interest or tax credit and the remaining amount of the tax credit available for use by the transferee; and

(H) The amount of dividends and distributions previously paid by the business to the original purchaser and all transferees.

(d)(1) If the owner of an equity interest in or a tax credit issued by a company is a pass-through entity for tax purposes, such as a limited liability company or a partnership, then the owner of the pass-through entity is entitled to the tax credit described in this section.

(2) If a pass-through entity entitled to a tax credit under subdivision (d)(1) of this section is owned by two (2) or more persons, then the tax credit may be allocated among the pass-through entity owners in the method selected by the owners as described in the governing documents of the pass-through entity or by other written agreement among the owners.

(e)(1) For the purpose of ascertaining the gain or loss from the sale or other disposition of an equity interest in a business, the owner of the equity interest shall reduce the owner's basis in the equity interest by the amount of cash received from selling the tax credits and the tax credits previously deducted under this section.

(2) However, sale or other disposition under subdivision (e)(1) of this section does not include a transfer from the holder of an equity interest to the business in liquidation of the equity interest.

(3) This reduced basis shall be used by the original purchaser or transferee when calculating tax due under the Income Tax Act of 1929, § 26-51-101 et seq.

(f) The total cumulative amount of tax credits available to all purchasers of equity interest in qualified businesses under this section in any calendar year shall not exceed six million two hundred fifty thousand dollars (\$6,250,000).

(g) The original investor earning tax credits under this section may sell its tax credits:

(1) Only one (1) time, in whole or in part, the balance of which shall be used by the original investor within the time frame allowed under this subchapter; and

(2) At any time before the tax credits are exhausted or expire.

History. Acts 2007, No. 566, § 1; 2009, No. 481, §§ 2, 3; 2011, No. 829, § 3; 2015, No. 164, §§ 3-5; 2017, No. 426, § 5; 2019, No. 537, § 1.

Amendments. The 2017 amendment

deleted “and under § 15-4-1026” following “section” in (f).

The 2019 amendment added the (g)(1) designation; and added (g)(2).

SUBCHAPTER 35 — INCENTIVES FOR MAJOR MAINTENANCE AND IMPROVEMENT PROJECTS

SECTION.

15-4-3501. Increased tax refund for major maintenance and improvement projects. [Effective until January 1, 2023.]

SECTION.

15-4-3501. Increased tax refund for major maintenance and improvement projects. [Effective January 1, 2023.]

Effective Dates. Acts 2017, No. 465, § 8; Mar. 13, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that most states exempt from sales and use tax the sale of property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment; that other states apply a reduced tax rate to the sale of property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment; that Arkansas taxes the sale of property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment at a tax rate of four and seven-eighths percent (4.875%) after application of the refund of tax paid for property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment; that the Arkansas Business and Economic Development Incentives Study conducted by Fluor Global Location Strategies and presented to the Bureau of Legislative Research in 2006 classified Arkansas as the worst of the twelve states in the southeast region on the taxation of sales of industrial materials used in manufacturing;

that Alabama, Mississippi, North Carolina, and other states have phased in exemptions for sales of property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment over time; that under the Streamlined Sales and Use Tax Agreement to which Arkansas is a party, reductions in sales and use tax must be implemented through a refund or rebate mechanism until a complete exemption is achieved; and that this act is immediately necessary because Arkansas, in imposing an effective tax rate of four and seven-eighths percent (4.875%) after application of the refund of tax paid for property and labor associated with the modification, partial replacement, and repair of manufacturing machinery and equipment, is not competitive with surrounding states and states in the southeast region, which costs the state present and future jobs. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: “Legislative intent — Contingent effectiveness.

“(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

“(b)(1) This act shall not become effective unless HB1468 of 2021 [Acts 2021, No. 586] is enacted during the Ninety-Third Regular Session of the General Assembly.

“(2) If HB1468 of 2021 [Acts 2021, No. 586] is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly.” House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

15-4-3501. Increased tax refund for major maintenance and improvement projects. [Effective until January 1, 2023.]

(a) A taxpayer that is eligible for a refund of excise taxes under § 26-52-447 or § 26-53-149 is eligible for a refund of one hundred percent (100%) of the sales and use taxes levied in §§ 26-52-301, 26-52-302, 26-53-106, and 26-53-107 on the tangible personal property and services subject to §§ 26-52-447 and 26-53-149 for projects that meet the following requirements:

(1) The taxpayer has entered into a financial incentive agreement with the Arkansas Economic Development Commission for the project; and

(2) The taxpayer expends at least three million dollars (\$3,000,000) on an approved project that includes the purchase of tangible personal property and services that are either exempt or subject to a partial refund of tax under § 26-52-402, § 26-52-447, § 26-53-114, or § 26-53-149.

(b) A taxpayer shall file with the commission an application for the increased refund for major maintenance and improvement projects provided in this section.

(c) The increased refund of sales and use taxes for major maintenance and improvement projects provided in this section is a discre-

tionary incentive and is not available unless offered by the Director of the Arkansas Economic Development Commission.

(d) The director shall forward the taxpayer's application, financial incentive agreement, any other pertinent documentation, and a written copy of the determination under this subsection to the Secretary of the Department of Finance and Administration if the director:

(1) Determines that the taxpayer is eligible for the increased refund for major maintenance and improvement projects provided for in this section;

(2) Determines that the taxpayer has provided reasonable proof that there will be a positive return on the taxpayer's investment in the major maintenance and improvement project that is sufficient to offset the taxes refunded under this section;

(3) Determines that the taxpayer has provided a defined scope, beginning date, and ending date for the major maintenance and improvement project;

(4) Determines that the refund is reasonably necessary for the taxpayer to remain competitive and preserve Arkansas jobs; and

(5) Agrees to provide the incentive under this section.

(e) A taxpayer that has been approved for the increased refund for major maintenance and improvement projects provided for in this section may make changes in a major maintenance and improvement project by written amendment to the project plan filed with the commission as part of the financial incentive agreement required under this section.

(f) Except as otherwise provided in this section, a refund under this section is subject to the Arkansas Tax Procedure Act, § 26-18-101 et seq., in the same manner as other refunds permitted under § 26-18-507.

(g) An expenditure shall not qualify for both the increased refund for major maintenance and improvement projects under this section and the retention tax credit provided for in § 15-4-2706(c).

(h) The director and the secretary may promulgate rules necessary to implement this section.

(i)(1) A taxpayer may apply for an increased refund for major maintenance and improvement projects under this section through June 30, 2022.

(2) An application for an increased refund for major maintenance and improvement projects under this section shall not be accepted on or after July 1, 2022.

History. Acts 2013, No. 1404, § 3; 2017, No. 465, § 2; 2019, No. 910, §§ 427, 428.

Publisher's Notes. For text of section effective January 1, 2023, see the following version.

Amendments. The 2017 amendment added (i).

The 2019 amendment, in (c), in the introductory language of (d), and (h), substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" and substituted "Secretary of the Department of Finance and Administration" for "Director

of the Department of Finance and Administration”.

15-4-3501. Increased tax refund for major maintenance and improvement projects. [Effective January 1, 2023.]

(a) A taxpayer that is eligible for a refund of excise taxes under § 26-52-447 or § 26-53-149 is eligible for a refund of one hundred percent (100%) of the sales and use taxes levied in §§ 26-52-301, 26-52-302, 26-53-106, and 26-53-107 on the tangible personal property and services subject to §§ 26-52-447 and 26-53-149 for projects that meet the following requirements:

(1) The taxpayer has entered into a financial incentive agreement with the Arkansas Economic Development Commission for the project; and

(2) The taxpayer expends at least three million dollars (\$3,000,000) on an approved project that includes the purchase of tangible personal property and services that are either exempt or subject to a partial refund of tax under § 26-52-402, § 26-52-447, § 26-53-114, or § 26-53-149.

(b) A taxpayer shall file with the commission an application for the increased refund for major maintenance and improvement projects provided in this section.

(c) The increased refund of sales and use taxes for major maintenance and improvement projects provided in this section is a discretionary incentive and is not available unless offered by the Director of the Arkansas Economic Development Commission.

(d) The director shall forward the taxpayer's application, financial incentive agreement, any other pertinent documentation, and a written copy of the determination under this subsection to the Secretary of the Department of Finance and Administration if the director:

(1) Determines that the taxpayer is eligible for the increased refund for major maintenance and improvement projects provided for in this section;

(2) Determines that the taxpayer has provided reasonable proof that there will be a positive return on the taxpayer's investment in the major maintenance and improvement project that is sufficient to offset the taxes refunded under this section;

(3) Determines that the taxpayer has provided a defined scope, beginning date, and ending date for the major maintenance and improvement project;

(4) Determines that the refund is reasonably necessary for the taxpayer to remain competitive and preserve Arkansas jobs; and

(5) Agrees to provide the incentive under this section.

(e) A taxpayer that has been approved for the increased refund for major maintenance and improvement projects provided for in this section may make changes in a major maintenance and improvement project by written amendment to the project plan filed with the commission as part of the financial incentive agreement required under this section.

(f) Except as otherwise provided in this section, a refund under this section is subject to the Arkansas Tax Procedure Act, § 26-18-101 et seq., and the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., in the same manner as other refunds permitted under § 26-18-507.

(g) An expenditure shall not qualify for both the increased refund for major maintenance and improvement projects under this section and the retention tax credit provided for in § 15-4-2706(c).

(h) The director and the secretary may promulgate rules necessary to implement this section.

(i)(1) A taxpayer may apply for an increased refund for major maintenance and improvement projects under this section through June 30, 2022.

(2) An application for an increased refund for major maintenance and improvement projects under this section shall not be accepted on or after July 1, 2022.

History. Acts 2013, No. 1404, § 3; 2017, No. 465, § 2; 2019, No. 910, §§ 427, 428; 2021, No. 593, § 2.

A.C.R.C. Notes. Under Acts 2021, No. 593, § 42, the effectiveness of Acts 2021, No. 593, was contingent on the enactment of House Bill 1468 during the Ninety-Third Regular Session. House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

Publisher's Notes. For text of section effective until January 1, 2023, see the preceding version.

Amendments. The 2017 amendment added (i).

The 2019 amendment, in (c), in the introductory language of (d), and (h), substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" and substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration".

The 2021 amendment inserted "and the Independent Tax Appeals Commission Act, § 26-18-1101 et seq." in (f).

Effective Dates. Acts 2021, No. 593, § 41: Jan. 1, 2023.

Acts 2021, No. 593, § 42, provided: "Legislative intent — Contingent effectiveness.

"(a) The General Assembly intends for this act to be effective only if the Arkansas Code is amended to expressly authorize, implement, and enable the hearing and determination of tax appeals by the Tax Appeals Commission under the Arkansas Tax Procedure Act, § 26-18-101 et seq., the Independent Tax Appeals Commission Act, § 26-18-1101 et seq., and any other relevant laws.

"(b)(1) This act shall not become effective unless HB1468 of 2021 [Acts 2021, No. 586] is enacted during the Ninety-Third Regular Session of the General Assembly.

"(2) If HB1468 of 2021 [Acts 2021, No. 586] is not enacted during the Ninety-Third Regular Session of the General Assembly, this act expires retroactively upon the sine die adjournment of the Ninety-Third Regular Session of the General Assembly." House Bill 1468 was enacted during the Ninety-Third Regular Session and became Acts 2021, No. 586, on April 6, 2021.

SUBCHAPTER 36 — NEW MARKETS JOBS ACT OF 2013

SECTION.

15-4-3606. Letter rulings.

15-4-3606. Letter rulings.

(a) Subject to the requirements and limitations of this section, the Arkansas Economic Development Commission shall issue letter rulings regarding the tax credit program authorized under this subchapter.

(b)(1) The commission shall respond to a request for a letter ruling within sixty (60) days of receiving the request.

(2)(A) However, the commission may deny a request for a letter ruling for good cause.

(B) If the commission denies a request for a letter ruling for good cause, it shall list the specific reasons for refusing to issue the letter ruling.

(C) Good cause for denying a request for a letter ruling under this subsection includes without limitation the following:

(i) The applicant requests the commission to determine whether a statute is constitutional or a rule is lawful;

(ii) The request involves a hypothetical situation or alternative plans;

(iii) The facts or issues presented in the request are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue a letter ruling; and

(iv) The issue is currently being considered in a rulemaking procedure, contested case, or other agency or judicial proceeding that may resolve the issue.

(3) In rendering letter rulings under this subchapter, the commission shall look for guidance to 26 U.S.C. § 45D and 26 C.F.R. § 1.45D-1, as they existed on January 1, 2013, and to the extent they are applicable.

(c) An applicant may:

(1) Provide a draft letter ruling for the commission's consideration; and

(2) Withdraw a request for a letter ruling, in writing, before the issuance of the letter ruling.

(d) Letter rulings bind all state agencies, including the commission and the commission's agents and successors until the qualified community development entity or its shareholders, members, or partners claim all of the applicable tax credits under this subchapter on a Arkansas tax return or report.

(e)(1) A letter ruling issued under this section applies only to the applicant that requested the letter ruling.

(2) However, a taxpayer identified in a letter ruling may rely on the letter ruling to the extent the letter ruling applies to the taxpayer.

History. Acts 2013, No. 1474, § 1; substituted "rule" for "regulation" in 2019, No. 315, § 1076.

(b)(2)(C)(i).

Amendments. The 2019 amendment

SUBCHAPTER 37 — ARKANSAS WORKFORCE INNOVATION AND OPPORTUNITY ACT

SECTION.

15-4-3703. Definitions.

15-4-3704. Arkansas Workforce Development Board.

15-4-3705. Arkansas Workforce Development Board committees.

15-4-3706. Powers and duties of the Arkansas Workforce Development Board.

SECTION.

15-4-3707. Unified state workforce development plan requirements.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-4-3703. Definitions.

As used in this subchapter:

(1)(A) "Chief elected official" means the chief elected executive officer of a unit of general local government in a local workforce development area.

(B) If a local workforce development area includes more than one (1) unit of general local government, the chief elected officials of each unit shall execute an agreement specifying the respective roles of the individual chief elected officials;

(2) "Core programs" means:

(A) Youth, adult, and dislocated worker programs funded by the Workforce Innovation and Opportunity Act, Pub. L. No. 113-128;

(B) Adult education and literacy activities;

(C) Employment services funded by the Wagner-Peyser Act, 29 U.S.C. § 49 et seq.; and

(D) Subchapter 1 of the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq., other than 29 U.S.C. § 732 or 29 U.S.C. § 741; and

(3) "One-stop partner program" means:

(A) Youth, adult, and dislocated worker programs funded by the Workforce Innovation and Opportunity Act, Pub. L. No. 113-128;

(B) Adult education and literacy activities;

(C) Employment services funded by the Wagner-Peyser Act, 29 U.S.C. § 49 et seq.;

(D) Subchapter 1 of the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq., other than 29 U.S.C. § 732 or 29 U.S.C. § 741;

(E) Activities authorized under Title V of the Older Americans Act of 1965, 42 U.S.C. § 3056 et seq.;

(F) Career and technical education programs at the postsecondary level authorized under the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. § 2301 et seq.;

(G) Activities authorized under Part 2 of Subchapter II of the Trade Act of 1974, 19 U.S.C. § 2271 et seq.;

(H) Activities authorized under 38 U.S.C. § 4100 et seq.;

(I) Employment and training activities carried out under the Community Services Block Grant Act, 42 U.S.C. § 9901 et seq.;

(J) Employment and training activities carried out by the United States Department of Housing and Urban Development;

(K) Programs authorized under state unemployment compensation laws in accordance with applicable federal law;

(L) Programs authorized under § 212 of the Second Chance Act of 2007, 42 U.S.C. § 17532; and

(M)(i) Programs authorized under Part A of Title IV of the Social Security Act, 42 U.S.C. § 601 et seq., subject to subparagraph (C).

(ii) "One-stop partner program" does not include a program under subdivision (3)(M)(i) of this section if the Governor determines that the program will not be a one-stop partner and communicates this determination in writing to the Secretary of the United States Department of Labor as required by the Workforce Innovation and Opportunity Act, Pub. Law No. 113-128.

History. Acts 2015, No. 907, § 3; 2017, in (2)(D) and (3)(D), deleted "§ 112 [repealed]," following "29 U.S.C." No. 374, §§ 11, 12.

Amendments. The 2017 amendment,

15-4-3704. Arkansas Workforce Development Board.

(a) The Arkansas Workforce Development Board is created.

(b) The Arkansas Workforce Development Board shall consist of:

(1) The Governor;

(2) The following members to be appointed by the Governor, subject to confirmation by the Senate:

(A) Members constituting a majority of the Arkansas Workforce Development Board who are representatives of businesses in Arkansas and who:

(i) Are owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority, and who may be members of a local workforce development board;

(ii) Represent businesses, including small businesses, or organizations representing businesses, providing employment opportunities

that, at a minimum, include high-quality, work-relevant training and development in in-demand industry sectors or occupations in Arkansas; and

(iii) Are appointed from among individuals nominated by Arkansas business organizations and business trade associations; and

(B) Members constituting not less than twenty percent (20%) of the membership of the Arkansas Workforce Development Board who are representatives of the workforce within the state, to include:

(i) Two (2) members who are representatives of labor organizations to be nominated by the Arkansas Labor Federation;

(ii) One (1) member who is a representative of a labor organization or a training director, from a joint labor-management apprenticeship program, or if no such joint program exists in the state, a representative of an apprenticeship program in Arkansas;

(iii) At least one (1) member who is a representative of a community-based organization that has demonstrated experience and expertise in addressing the employment, training, or education needs of individuals with barriers to employment, including community-based organizations that serve veterans or that provide or support competitive, integrated employment for individuals with disabilities;

(iv) At least one (1) member who is a representative from the Division of Higher Education representing postsecondary organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth; and

(v) At least one (1) member who is a representative of community-based organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including community-based organizations that serve out-of-school youth;

(3) The Director of the Adult Education Section;

(4) The Director of the Division of Workforce Services;

(5) The Director of Arkansas Rehabilitation Services;

(6) The Director of the Division of State Services for the Blind of the Department of Human Services;

(7) The Director of the Arkansas Economic Development Commission;

(8) One (1) chief elected official nominated by the Arkansas Municipal League; and

(9) One (1) chief elected official nominated by the Association of Arkansas Counties.

(c)(1) The Arkansas Workforce Development Board shall not consist of more than thirty-eight (38) members.

(2) A person may not serve in dual capacity as a member of the Arkansas Workforce Development Board.

(d) The members of the Arkansas Workforce Development Board shall represent diverse geographic areas of the state, including urban, rural, and suburban areas.

(e) The Governor shall annually select on June 1 of each year a chair for the Arkansas Workforce Development Board from among the members representing businesses.

(f)(1) Appointed members shall serve four-year staggered terms.

(2) The staggered terms shall be assigned by lot.

(g) In the event of a vacancy on the Arkansas Workforce Development Board in one (1) of the appointed positions, the vacancy shall be filled for the unexpired portion of the term by appointment by the original appointing authority of a person meeting the same qualifications required for initial appointment.

(h)(1) By a majority vote of the total membership of the Arkansas Workforce Development Board cast during its first regularly scheduled meeting of each calendar year, the Arkansas Workforce Development Board may authorize payment to the appointed members of a stipend not to exceed one hundred ten dollars (\$110) per meeting attended of the full Arkansas Workforce Development Board or its committees, and the Arkansas Workforce Development Board members shall receive no other compensation, expense reimbursement, or in-lieu-of payments except as provided in § 25-16-902.

(2) The stipend shall be paid from Workforce Innovation and Opportunity Act funding awarded to the state and authorized for Arkansas Workforce Development Board activities.

(i) The Arkansas Workforce Development Board shall make available to the public on a regular basis, through electronic means and open meetings, the following information regarding:

(1) The activities of the Arkansas Workforce Development Board;

(2) The state workforce development plan, or any modification of the state workforce development plan, before submission of either the state workforce development plan or any modification of the state workforce development plan;

(3) Membership of the Arkansas Workforce Development Board; and

(4) On request, minutes of formal meetings of the Arkansas Workforce Development Board.

(j) A member of the Arkansas Workforce Development Board shall not:

(1) Vote on a matter under consideration by the Arkansas Workforce Development Board:

(A) Regarding the provision of services by the member or by an entity that the member represents; or

(B) That would provide direct financial benefit to the member or the immediate family of the member; or

(2) Engage in another activity determined by the Governor or law to constitute a conflict of interest.

(k)(1) The Arkansas Workforce Development Board shall not directly hire staff.

(2) Staff support shall be provided by the Division of Workforce Services.

(3) The Governor shall appoint a chair and vice chair of the Arkansas Workforce Development Board.

(l) The Arkansas Workforce Development Board shall meet at least quarterly or at the call of the chair or upon the written request of a majority of the members of the Arkansas Workforce Development Board.

(m) Each appointed member shall be a resident of the State of Arkansas.

(n) Each member shall have voting rights.

(o) A simple majority of members shall constitute a quorum.

History. Acts 2015, No. 907, § 3; 2017, No. 374, § 13; 2019, No. 910, §§ 429-431.

Amendments. The 2017 amendment deleted “in attendance” following “members” in (o).

The 2019 amendment substituted “Director of the Adult Education Section” for “Director of the Department of Career Education” in (b)(3); substituted “Director of the Division of Workforce Services” for “Director of the Department of Workforce

Services” in (b)(4); substituted “Director of Arkansas Rehabilitation Services” for “Director of Arkansas Rehabilitation Services of the Department of Career Education” in (b)(5); substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (b)(7); and substituted “Division of Workforce Services” for “Department of Workforce Services” in (k)(2).

15-4-3705. Arkansas Workforce Development Board committees.

(a)(1) To comply with the requirements and responsibilities assigned under this subchapter, the Arkansas Workforce Development Board shall select from its membership an executive committee to be composed of at least nine (9) members but no more than eleven (11) members.

(2) The Chair of the Arkansas Workforce Development Board and the Vice Chair of the Arkansas Workforce Development Board shall serve as chair and vice chair of the executive committee, respectively.

(3) The membership of the executive committee shall include:

(A) At least five (5) members representing businesses;

(B) At least one (1) chief elected official; and

(C) At least two (2) representatives from among members appointed under § 15-4-3704(b)(2)(B).

(b)(1) The board shall have a standing committee to provide oversight of the Temporary Assistance for Needy Families Program and ensure that all program participants are receiving the assistance, the information, and the services needed to help these low-income parents prepare for and connect with employment that will lead to a self-sufficient wage.

(2) The membership of the standing committee shall include:

(A) At least five (5) members representing businesses;

(B) At least one (1) chief elected official;

(C) At least one (1) member from among those members appointed under § 15-4-3704(b)(2)(B);

(D) The Director of the Division of Workforce Services; and

(E) The Director of the Division of County Operations of the Department of Human Services, as a standing committee voting member who is also not a member of the board.

(c) The board may form other committees as needed.

(d) Membership on any committee shall not extend beyond the member's term of service on the board.

History. Acts 2015, No. 907, § 3; 2019, No. 910, § 432.

Amendments. The 2019 amendment substituted "Director of the Division of

Workforce Services" for "Director of the Department of Workforce Services" in (b)(2)(D).

15-4-3706. Powers and duties of the Arkansas Workforce Development Board.

The Arkansas Workforce Development Board shall assist the Governor and the Secretary of the Department of Commerce in:

(1) The development, implementation, and modification of the state workforce development plan;

(2) The review of statewide policies, of statewide programs, and of recommendations on actions that should be taken by the state to align state workforce development programs in a manner that supports a comprehensive and streamlined state workforce development system, including the review and provision of comments on the state workforce development plan, if any, for programs and activities of one-stop partners that are not core programs;

(3) The development and continuous improvement of the state workforce development system, including without limitation:

(A) The identification of barriers to employment that may exist between programs and the means for removing the barriers between programs to better coordinate, align, and avoid duplication among the programs and activities carried out through the state workforce development system;

(B) The development of strategies to support the use of career pathways for the purpose of providing individuals, including low-skilled adults, youth, and individuals with barriers to employment, including individuals with disabilities, with workforce investment activities, education, and supportive services to gain or retain employment;

(C) The development of strategies for providing effective outreach to and improved access for individuals and employers who could benefit from services provided through the state workforce development system;

(D) The development and expansion of strategies for meeting the needs of employers, workers, and jobseekers, particularly through industry or sector partnerships related to in-demand industry sectors and occupations;

(E) The identification of regions, including planning regions, after consultation with local workforce development boards and chief elected officials;

(F) The development and continuous improvement of the one-stop delivery system in local workforce development areas, including providing assistance to local workforce development boards, one-stop operators, one-stop partners, and providers, with planning and delivering services, including training services and supportive services, to support effective delivery of services to workers, jobseekers, and employers; and

(G) The development of strategies to support staff training and awareness across programs supported under the state workforce development system;

(4) The development and updating of comprehensive state performance accountability measures, including state adjusted levels of performance, to assess the effectiveness of the core programs in the state;

(5) The identification and dissemination of information on best practices, including best practices for:

(A) The effective operation of one-stop centers relating to the use of business outreach, partnerships, and service delivery strategies, including strategies for serving individuals with barriers to employment;

(B) The development of effective local workforce development boards, which may include information on factors that contribute to enabling local workforce development boards to exceed negotiated local levels of performance, sustain fiscal integrity, and achieve other measures of effectiveness; and

(C) Effective training programs that respond to real-time labor market analysis and effectively use direct assessment and prior learning assessment to measure an individual's prior knowledge, skills, competencies, and experiences, and that evaluate such skills and competencies for adaptability to support efficient placement into employment or career pathways;

(6) The development and review of statewide policies affecting the coordinated provision of services through the state's one-stop delivery system, including the development of:

(A) Objective criteria and procedures for use by local workforce development boards in assessing the effectiveness and continuous improvement of one-stop centers;

(B) Guidance for the allocation of one-stop center infrastructure funds; and

(C) Policies relating to the appropriate roles and contributions of entities carrying out one-stop partner programs within the one-stop delivery system, including approaches to facilitating equitable and efficient cost allocation in the one-stop delivery system;

(7) The development of strategies for technological improvements to facilitate access to, and improve the quality of, services and activities provided through the one-stop delivery system, including the improvements to:

(A) Enhance digital literacy skills;

(B) Accelerate the acquisition of skills and recognized postsecondary credentials by participants;

(C) Strengthen the professional development of providers and workforce professionals; and

(D) Ensure the technology is accessible to individuals with disabilities and individuals residing in remote areas;

(8) The development of strategies for aligning technology and data systems across one-stop partner programs to enhance service delivery and improve efficiencies in reporting on performance accountability measures, including the design and implementation of common intake, data collection, case management information, and performance accountability measurement and reporting processes and the incorporation of local input into the design and implementation to improve coordination of services across one-stop partner programs;

(9) The development of allocation formulas for the distribution of funds for employment and training activities for adults, and youth workforce investment activities, to local workforce development areas;

(10) The preparation of an annual report;

(11) The development of the statewide workforce and labor market information system; and

(12) The development of such other policies as may promote statewide objectives for, and enhance the performance of, the workforce development system in the state.

History. Acts 2015, No. 907, § 3; 2019, No. 910, § 433.

inserted “and the Secretary of the Department of Commerce” in the introductory language.

Amendments. The 2019 amendment

15-4-3707. Unified state workforce development plan requirements.

(a) By March 3, 2016, the Governor shall submit to the United States Department of Labor and other approval authorities, as appropriate, a state plan outlining the state’s four-year strategy for the core programs of the state under this subchapter.

(b) The state plan shall be a unified plan addressing services available through all core programs and developed jointly by the Division of Workforce Services, the Adult Education Section, Arkansas Rehabilitation Services, and the Division of State Services for the Blind, in coordination with the Arkansas Workforce Development Board.

(c) The state plan shall include:

(1) A strategic vision and goals for preparing an educated and skilled workforce that include:

(A) An analysis of the economic conditions in the state, including without limitation:

(i) Existing and emerging in-demand industry sectors and occupations; and

(ii) The employment needs of employers, including a description of the knowledge, skills, and abilities needed in those industries and occupations;

(B) An analysis of the current workforce, employment and unemployment data, labor market trends, and the educational and skill levels of the workforce that take into account individuals with barriers to employment and individuals with disabilities in the state;

(C) An analysis of the workforce development activities, including education and training, in the state, including an analysis of the strengths and weaknesses of such activities, and the capacity of state entities to provide such activities in order to address the identified education and skill needs of the workforce and the employment needs of employers in the state;

(D) A description of the state's strategic vision and goals for preparing an educated and skilled workforce, including preparing youth and individuals with barriers to employment, and for meeting the skilled workforce needs of employers, including goals relating to performance accountability measures based on primary indicators of performance described in the Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, in order to support economic growth and economic self-sufficiency, and of how the state will assess the overall effectiveness of the workforce investment system in the state; and

(E) Taking into account analyses described in subdivisions (c)(1)(A)-(C) of this section, a strategy for aligning the core programs, as well as other resources available to the state, to achieve the strategic vision and goals described in subdivision (c)(1)(D) of this section; and

(2) An operational plan that includes:

(A) How the Arkansas Workforce Development Board will implement the functions assigned under § 15-4-3706;

(B) How the lead state agency with responsibility for the administration of a core program will implement the strategy described in subdivision (c)(1)(E) of this section, including a description of:

(i) The activities that will be funded by the entities carrying out the respective core programs to implement the strategy and how the activities will be aligned across the programs and among the entities administering the programs, including using co-enrollment and other strategies;

(ii) How the activities described in subdivision (c)(2)(B)(i) of this section will be aligned with activities provided under employment, training, education, including career and technical education, and human services programs not covered by the operational plan, as appropriate, avoiding duplication and assuring coordination;

(iii) How the entities carrying out the respective core programs will coordinate activities and provide comprehensive, high-quality services, including supportive services, to individuals;

(iv) How the state's strategy will engage the state's community colleges and area career and technical education schools as partners

in the workforce development system and enable the state to leverage other federal, state, and local investments that have enhanced access to workforce development programs at those institutions;

(v) How the activities will be coordinated with economic development strategies; and

(vi) How the state's strategy will improve access to activities leading to a recognized postsecondary credential, including a credential that is an industry recognized certificate or certification, portable, and stackable;

(C) A description of the state operating systems and policies that will support the implementation of the strategy, including a description of:

(i) The Arkansas Workforce Development Board, including the activities to assist members of the Arkansas Workforce Development Board and the staff of the Arkansas Workforce Development Board in carrying out the functions of the Arkansas Workforce Development Board effectively, but funds for the activities shall not be used for long-distance travel expenses for training or development activities available locally or regionally;

(ii) How the respective core programs will be assessed each year, including an assessment of the quality, effectiveness, and improvement of programs, analyzed by local workforce development area or by provider, based on state performance accountability measures;

(iii) How other one-stop partner programs will be assessed each year;

(iv) The methods and factors the state will use in distributing funds under the core programs;

(v) How the lead state agencies with responsibility for the administration of the core programs will align and integrate available workforce and education data on core programs, unemployment insurance programs, and education through postsecondary education;

(vi) How the agencies will use the workforce development system to assess the progress of participants who are exiting from core programs in entering, persisting in, and completing postsecondary education, or entering or remaining in employment;

(vii) The privacy safeguards incorporated in the system, including safeguards required by the General Education Provisions Act, 20 U.S.C. § 1221 et seq., and other applicable federal laws;

(viii) How the state will implement the priority of service provisions for veterans in accordance with the requirements of 38 U.S.C. § 4215; and

(ix) How the one-stop delivery system, including one-stop operators and the one-stop partners, will comply with § 188 of the Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, 29 U.S.C. § 3248, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., regarding the physical and programmatic accessibility of facilities,

programs, services, technology, and materials, for individuals with disabilities, including complying through providing staff training and support for addressing the needs of individuals with disabilities;

(D) State policies or guidance for the statewide workforce development system, including without limitation:

(i) The local workforce development areas designated in the state, including the process used for designating local workforce development areas, and the process used for identifying any planning, including a description of how the Arkansas Workforce Development Board consulted with the local workforce development boards and chief elected officials in determining the planning regions;

(ii) The appeals process relating to designation of local workforce development areas;

(iii) The appeals process relating to determinations for infrastructure funding; and

(iv) Information identifying the criteria to be used by local workforce development boards in awarding grants for youth workforce investment activities and describing how the local workforce development boards will take into consideration the ability of the providers to meet performance accountability measures based on primary indicators of performance for the youth program;

(E) How the Adult Education Section will, if applicable, align content standards for adult education with state-adopted challenging academic content standards, as adopted under § 1111(b)(1) of the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6311(b)(1);

(F) How the state will fund local activities including:

(i) Adult education and literacy activities;

(ii) Programs for corrections education and other institutionalized individuals;

(iii) Programs for integrated English literacy and civics education; and

(iv) Integrated education and training;

(G) How adult education and literacy activities will be aligned with other core programs and one-stop partners, including eligible providers;

(H) How English literacy and civics education will be aligned with other core programs and one-stop partners to prepare and place adults who are English-language learners in unsubsidized employment in demand occupations that lead to economic self-sufficiency; and

(I) How the quality of providers of adult education and literacy activities will be assessed and actions to improve the quality of the activities.

(d) One (1) time every two (2) years, the Arkansas Workforce Development Board shall review the unified state plan and submit modifications to the unified state plan to reflect changes in labor market and economic conditions or in other factors affecting the implementation of the unified state plan.

History. Acts 2015, No. 907, § 3; 2017, No. 374, § 14; 2019, No. 910, §§ 434, 435.

Amendments. The 2017 amendment deleted “§ 444 of the National Defense Education Program, 20 U.S.C. §§ 401-

589, and” following “required by” in (c)(2)(C)(vii).

The 2019 amendment substituted “Adult Education Section” for “Department of Career Education” in (c)(2)(E).

SUBCHAPTER 38 — LOCAL FOOD, FARMS, AND JOBS ACT

SECTION.	SECTION.
15-4-3801. Title.	15-4-3805. Reporting requirements.
15-4-3802. Legislative intent.	15-4-3806. Promotion.
15-4-3803. Definitions.	15-4-3807. Relationship to federal law.
15-4-3804. Procurement goal — Distributor requirements.	15-4-3808. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-4-3801. Title.

This subchapter shall be known and may be cited as the “Local Food, Farms, and Jobs Act”.

History. Acts 2017, No. 617, § 1.

15-4-3802. Legislative intent.

- The General Assembly intends for this subchapter to:
- (1) Create, strengthen, and expand local farm and food economies throughout the state;
 - (2) Support and encourage the procurement of local farm or food products as a significant portion of all food products purchased by the state; and
 - (3) Secure data on the procurement of local farm or food products prepared and consumed within agencies.

History. Acts 2017, No. 617, § 1; 2019, No. 796, § 1.

Amendments. The 2019 amendment added (3).

15-4-3803. Definitions.

As used in this subchapter:

(1)(A) “Agency” means an entity that receives at least twenty-five thousand dollars (\$25,000) a year from the state and offers a food service program.

(B) “Agency” includes without limitation:

(i) An institution of higher education;

(ii) A child care facility;

(iii) A state park;

(iv) An after-school program;

(v) A state agency or other entity of the state;

(vi) A designee under contract to provide a food service program for an agency; and

(vii) A designee under contract to provide wholesale local farm or food products for an agency;

(2)(A) “Distributor” means a person or entity involved in marketing and distributing local farm or food products to another entity, including without limitation to:

(i) A restaurant;

(ii) A healthcare facility;

(iii) An educational institution;

(iv) A hospitality business, including without limitation a hotel or inn;

(v) A government entity; or

(vi) An agency.

(B) “Distributor” includes a person or entity that provides food products at wholesale to another company that provides or manages a food service program;

(3) “Food product” means a substance, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion or chewing by humans and is consumed for its taste or nutritional value;

(4)(A) “Food service program” means the preparation and consumption of food products at an on-site cafeteria.

(B) “Food service program” does not include catered events, franchises, or privately owned third-party vendors that do not serve as the primary provider for the delivery of food products on behalf of an agency; and

(5) “Local farm or food products” means food products that are grown in Arkansas or packaged and processed in Arkansas, or both.

History. Acts 2017, No. 617, § 1; 2019, No. 796, § 2.

Amendments. The 2019 amendment rewrote the section.

15-4-3804. Procurement goal — Distributor requirements.

(a) For each fiscal year, each agency shall make it a goal to ensure that at least twenty percent (20%) of the agency's purchases of food products is spent on local farm or food products.

(b) Each agency shall:

(1) Identify the percentage of funds spent on local farm or food products purchased for fiscal year 2017 to establish a baseline; and

(2) Develop a system for tracking and reporting purchases of local farm or food products each fiscal year.

(c) This section does not require an agency to use any specific procurement method for obtaining food products.

History. Acts 2017, No. 617, § 1; Acts 2019, No. 384, § 2; 2019, No. 796, § 3.

Amendments. The 2019 amendment by No. 384 deleted (a)(1); redesignated former (a)(2) as (a); and substituted "For each fiscal year" for "For fiscal years beginning on and after July 1, 2018" in (a)(2).

The 2019 amendment by No. 796 added "Distributor requirements" in the section heading; in (a)(2) [now (a)], inserted "at least" and deleted "the amount budgeted for" preceding "the agency's purchases"; and deleted former (b), and redesignated former (c) and (d) as (b) and (c).

15-4-3805. Reporting requirements.

(a) By October 1 of each year, an agency or agency designee shall submit a report to the Department of Agriculture stating:

(1) The name of the agency and, if applicable, agency designee;

(2) A policy statement signed by the executive head of the agency or agency designee expressing a commitment to complying with this subchapter;

(3) The name of the person in the agency or agency designee who is responsible for developing and administering the report required under this section;

(4) The manner in which the agency intends to reach the procurement goals stated in this subchapter;

(5) The dollar amount the agency spent with providers of local farm or food products in the previous fiscal year; and

(6) The percentage of the total dollar amount the agency spent on purchases of food products with providers of local farm or food products.

(b) By December 31 of each year, the department shall:

(1) Prepare a report compiling the information received under subsection (a) of this section; and

(2) Make the report required under this subsection available to the Governor and the cochairs of the Legislative Council or, if the General Assembly is in session, the cochairs of the Joint Budget Committee, the House Committee on Agriculture, Forestry, and Economic Development, and the Senate Committee on Agriculture, Forestry, and Economic Development.

History. Acts 2017, No. 617, § 1; 2019, No. 796, § 4.

Amendments. The 2019 amendment rewrote (a); substituted “department” for “bureau” in the introductory paragraph of (b); added “the House Committee on Agri-

culture, Forestry, and Economic Development, and the Senate Committee on Agriculture, Forestry, and Economic Development” at the end of (b)(2); and made a stylistic change.

15-4-3806. Promotion.

(a) The Department of Agriculture may use its internet resources to:

(1) Promote, create, and expand local farm and food economies in this state;

(2) Maintain a list of local farm or food products and the providers of local farm or food products; and

(3) Facilitate compliance with this subchapter.

(b)(1) The Department of Agriculture shall establish a program coordinator position, which shall be responsible for developing partnerships among vendors, agencies, and providers of local farm or food products to support the goals of this subchapter.

(2) The program coordinator shall:

(A) Support and assist providers of local farm or food products in:

(i) Developing a business plan;

(ii) Gaining access to agencies, distribution networks, and food service operators; and

(iii) Using available resources, including without limitation public and private entities;

(B) Be a resource for agencies to use to assist in tracking and reporting their progress in satisfying the procurement goals stated in this subchapter;

(C) Be a liaison between agencies and providers of local farm or food products to facilitate access to local farm or food products;

(D) Encourage and facilitate involvement and participation in the Farm to School Program administered by the United States Department of Agriculture by working with providers of local farm or food products, vendors, and distributors to assess the need for and availability of local farm and food products;

(E) Cooperate with the Department of Agriculture and providers of local farm or food products to promote, encourage, and increase participation in the Arkansas Grown program administered by the Department of Agriculture; and

(F) Work with distributors to ensure that:

(i) Local farm or food products are available for purchase and distribution to an agency;

(ii) A list of local farm or food products is available for an agency; and

(iii) A report is provided to the agency that lists the local farm or food products purchased and the dollar amount spent on the purchase of the local farm or food products.

History. Acts 2017, No. 617, § 1; 2019, No. 796, § 5; 2019, No. 910, § 50.

Amendments. The 2019 amendment by No. 796 rewrote (b)(2)(A); and added (b)(2)(F).

The 2019 amendment by No. 910 substituted “Department of Agriculture” for “Arkansas Agriculture Department” in the introductory language of (a), (b)(1), and twice in (b)(2)(E).

15-4-3807. Relationship to federal law.

(a) If this subchapter conflicts with federal law pertaining to a federal aid program, the conflicting provision or provisions of this subchapter do not apply to a contract that is subject to that federal law, rule, or regulation to the extent of the conflict.

(b) To the extent a conflict does not exist with federal law, this subchapter applies to contracts paid, in whole or in part, with federal funds.

History. Acts 2017, No. 617, § 1.

15-4-3808. Rules.

The Office of State Procurement may promulgate rules to implement and administer this subchapter, including without limitation a method for:

- (1) Identifying and certifying vendors as providers of local farm or food products; and
- (2) Determining the means of satisfying and tracking the procurement goals stated in this subchapter.

History. Acts 2017, No. 617, § 1.

SUBCHAPTER 39 — ARKANSAS MILITARY AFFAIRS COUNCIL ACT

SECTION.

- 15-4-3901. Title.
- 15-4-3902. Legislative intent.
- 15-4-3903. Definitions.
- 15-4-3904. Arkansas Military Affairs Council — Creation — Members.
- 15-4-3905. Military Affairs Division — Military Affairs Director — Creation.

SECTION.

- 15-4-3906. Powers, functions, and duties.
- 15-4-3907. Military Affairs Grant Program.
- 15-4-3908. Grant application process, review, and approval.
- 15-4-3909. Grant agreement.
- 15-4-3910. Rules.

Effective Dates. Acts 2021, No. 522, § 3: July 1, 2021. Emergency clause provided: “It is hereby found and determined by the General Assembly of the State of Arkansas that the optimal time to implement this act is at the beginning of the state’s fiscal year; and that in order to carry out the requirements of this act for

the next fiscal year it is necessary that this act become effective on July 1, 2021 for budgeting purposes. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2021.”

15-4-3901. Title.

This subchapter shall be known and may be cited as the “Arkansas Military Affairs Council Act”.

History. Acts 2021, No. 522, § 2.

15-4-3902. Legislative intent.

The General Assembly finds that:

(1) The State of Arkansas has a long and distinguished history of hosting military installations vital to the defense of the United States;

(2) This state is currently home to the following five (5) military installations:

(A) Little Rock Air Force Base in Jacksonville, Arkansas;

(B) Pine Bluff Arsenal in Pine Bluff, Arkansas;

(C) Camp Joseph T. Robinson in North Little Rock, Arkansas;

(D) Ebbing Air National Guard Base in Fort Smith, Arkansas; and

(E) Fort Chaffee Joint Maneuver Training Center in Fort Chaffee, Arkansas;

(3) Military installations are a major employer and contribute to state and local economic development;

(4) The closure or reduction in operation of any military installation would have a detrimental impact on the economy of our state; and

(5) State and local support for a military installation is a significant consideration of the United States Government in making decisions to realign or close a military installation.

History. Acts 2021, No. 522, § 2.

15-4-3903. Definitions.

As used in this subchapter:

(1) “City” means a city of the first class, a city of the second class, or an incorporated town in this state;

(2) “Economic development organization” means a business entity:

(A) In good standing with the Secretary of State; and

(B) Formed to promote community development and economic development in a geographic area within this state;

(3) “Eligible applicant” means:

(A) A city;

(B) A county;

(C) An economic development organization;

(D) A military community council;

(E) A military installation; or

(F) A state agency;

(4) “Military community council” means a business entity:

(A) In good standing with the Secretary of State; and

(B) Formed to promote cooperation between military and civilian components of a designated geographic area within this state

through the adoption and implementation of matters of joint interest to a military installation and the surrounding community by establishing and maintaining:

- (i) Necessary infrastructure;
- (ii) Safe and secure communities; and
- (iii) Support services; and

(5)(A) "Military installation" means a facility located in this state that is under the jurisdiction of the United States Department of Defense or the Department of the Military, including without limitation a:

- (i) Base;
- (ii) Camp;
- (iii) Post;
- (iv) Station;
- (v) Yard;
- (vi) Center; or
- (vii) Homeport facility for any ship.

(B) "Military installation" does not include a facility used primarily for:

- (i) National Guard armories;
- (ii) Civil works;
- (iii) Rivers and harbors projects; or
- (iv) Flood control projects.

History. Acts 2021, No. 522, § 2.

15-4-3904. Arkansas Military Affairs Council — Creation — Members.

(a) There is established the Arkansas Military Affairs Council.

(b) The purpose of the council is to advise and assist the Director of the Arkansas Economic Development Commission in the performance of his or her duties under this subchapter.

(c)(1) The council shall consist of twelve (12) members appointed at the discretion of the Governor.

(2) Members of the council shall consist of:

(A) Residents of communities near a military installation, including without limitation the following military installations:

- (i) Little Rock Air Force Base in Jacksonville, Arkansas;
- (ii) Pine Bluff Arsenal in Pine Bluff, Arkansas;
- (iii) Camp Joseph T. Robinson in North Little Rock, Arkansas;
- (iv) Fort Chaffee Joint Maneuver Training Center in Fort Chaffee, Arkansas; and

(v) Ebbing Air National Guard Base in Fort Smith, Arkansas;

(B) Representatives of aerospace and defense companies located within the State of Arkansas; and

(C) The Secretary of the Department of the Military or his or her designee as an ex officio nonvoting member.

(3) Members of the council shall serve for five-year terms.

(d) The council shall select by majority vote:

(1) One (1) member of the council to serve as chair; and

(2) One (1) member of the council to serve as vice chair.

(e)(1) Members of the council shall serve without compensation.

(2) However, if funds are appropriated for expense reimbursement, the members of the council may receive expense reimbursement in accordance with § 25-16-902.

History. Acts 2021, No. 522, § 2.

15-4-3905. Military Affairs Division — Military Affairs Director — Creation.

(a) There is created the Military Affairs Division within the Arkansas Economic Development Commission to be the instrumentality of this state to promote and support military installations in the State of Arkansas.

(b)(1) There is created the Military Affairs Director to head the division.

(2) The Director of the Arkansas Economic Development Commission shall hire a qualified applicant to serve as the Military Affairs Director.

(c) All state agencies may provide the Director of the Arkansas Economic Development Commission with assistance in advancing the purpose of the division by ensuring that the activities of the division are coordinated with the activities of other state agencies to achieve the purposes of this subchapter.

History. Acts 2021, No. 522, § 2.

15-4-3906. Powers, functions, and duties.

The Director of the Arkansas Economic Development Commission, the Military Affairs Director, and the Military Affairs Division, with the advice and assistance of the Arkansas Military Affairs Council and in coordination with the Secretary of the Department of the Military, have the following powers, functions, and duties:

(1) To collect and distribute comprehensive information relating to the mission capability and economic impact of a military installation to:

(A) A federal or state agency;

(B) A city;

(C) A county;

(D) A military community council;

(E) An economic development organization;

(F) An individual; or

(G) A corporation;

(2) To advise and assist, in coordination with the secretary, a local government, a military community council, or an economic development organization in:

(A) Advocating for the needs of:

- (i) A military installation;
- (ii) Military personnel; and
- (iii) Military families; and
- (B) Providing timely and effective responses to an inquiry from a federal agency concerning a military installation, in coordination with the secretary when an Arkansas National Guard military installation is impacted, and its host community;
- (3) To safeguard state and local economic development interests relating to:
 - (A) A military installation;
 - (B) Military personnel; and
 - (C) Military families;
- (4) To advise the Governor:
 - (A) Of the steps to take to:
 - (i) Help safeguard and strengthen the mission capability of a military installation; and
 - (ii) Position this state as a priority state in the national defense plan; and
 - (B) On the problems and needs of military families in the State of Arkansas and to develop appropriate policies at a state level to mitigate those needs; and
- (5) To develop programs and resources to assist military personnel and their families upon exiting military service so that they may continue to work and live in this state.

History. Acts 2021, No. 522, § 2.

15-4-3907. Military Affairs Grant Program.

The Military Affairs Grant Program is established to provide grants for projects or programs that:

- (1) Support and sustain military installations and military families in Arkansas; or
- (2) Result in economic growth to:
 - (A) The community hosting a military installation;
 - (B) The region surrounding a military installation; and
 - (C) This state.

History. Acts 2021, No. 522, § 2.

15-4-3908. Grant application process, review, and approval.

(a)(1) An eligible applicant may submit an application to receive a grant provided under the Military Affairs Grant Program to the Arkansas Economic Development Commission.

- (2) The commission shall:
 - (A) Solicit grant applications as funding becomes available; and
 - (B) Assign the Governor's Military Affairs Committee to assist the Military Affairs Director in evaluating grant applications.

(3) The Director of the Arkansas Economic Development Commission shall award a grant for a project or program submitted based on the:

(A) Criteria established in the Military Affairs Grant Program Funding Recommendation Worksheet created by the Military Affairs Division; and

(B) Grant recommendations of the Military Affairs Director and the committee.

(b) An eligible applicant applying for a grant under this section shall submit an application on a form prescribed by the commission that includes without limitation:

(1) The title of the project or program;

(2) The eligible applicant's contact information;

(3) The organizational information of the eligible applicant;

(4) The sources of all funds that will be used for the project or program, including prior Military Affairs Grant Program awards;

(5) All prior Military Affairs Grant Program awards received by the eligible applicant;

(6) The project or program proposal information;

(7) The amount of funding requested; and

(8) The start and completion dates of the project or program.

(c) The Military Affairs Director shall:

(1) Conduct a preliminary review of each grant application to confirm that the grant application:

(A) Was received on or before the due date specified in the grant application solicitation;

(B) Was submitted by an eligible applicant;

(C) Meets the objectives of the Military Affairs Grant Program;

(D) Identifies clearly defined and measurable outcomes relating to the objectives of the Military Affairs Grant Program;

(E) Includes a letter of support from the military installation commander if the project or program is located within the legal boundaries of a military installation; and

(F) Is complete, including without limitation all required appendices and attachments; and

(2) Forward the grant application to the committee at least fifteen (15) days before the next scheduled committee meeting if the Military Affairs Director determines the grant application meets the preliminary review requirements under subdivision (c)(1) of this section.

(d) The committee shall:

(1) Review each grant application in accordance with the Military Affairs Grant Program Funding Recommendation Worksheet; and

(2) Return to the Military Affairs Director:

(A) A completed Military Affairs Grant Program Funding Recommendation Worksheet; and

(B) Funding recommendations for each grant application.

(e) The Military Affairs Director shall conduct a final review of each grant application and forward each grant application to the Director of the Arkansas Economic Development Commission for approval.

History. Acts 2021, No. 522, § 2.

15-4-3909. Grant agreement.

An eligible applicant that receives approval from the Director of the Arkansas Economic Development Commission provided under the Military Affairs Grant Program shall execute a grant agreement with the Arkansas Economic Development Commission that includes without limitation the:

- (1) Eligibility date for incurring costs for the project or program;
- (2) Projected completion date of the portion of the project or program funded by the grant provided under the Military Affairs Grant Program;
- (3) Amount of approved costs; and
- (4) The process by which grant funds shall be disbursed to the eligible applicant.

History. Acts 2021, No. 522, § 2.

15-4-3910. Rules.

The Military Affairs Division shall adopt rules to implement and administer this subchapter, including without limitation rules regarding the:

- (1) Application process for grants provided under the Military Affairs Grant Program;
- (2) Disbursement of grant funds; and
- (3) Reporting required by an eligible applicant that receives grant funds.

History. Acts 2021, No. 522, § 2.

CHAPTER 5

ARKANSAS DEVELOPMENT FINANCE AUTHORITY

SUBCHAPTER.

1. ARKANSAS DEVELOPMENT FINANCE AUTHORITY ACT — GENERAL PROVISIONS.
2. ARKANSAS DEVELOPMENT FINANCE AUTHORITY ACT — ADMINISTRATION.
3. ARKANSAS DEVELOPMENT FINANCE AUTHORITY ACT — BONDS.
4. ARKANSAS DEVELOPMENT FINANCE AUTHORITY BOND GUARANTY ACT OF 1985.
6. ALLOCATION OF STATE CEILING.
7. ARKANSAS DEVELOPMENT FINANCE AUTHORITY SMALL BUSINESS ACT OF 1989.
9. CONSTRUCTION ASSISTANCE REVOLVING LOANS.
11. ARKANSAS CAPITAL ACCESS PROGRAM FOR SMALL BUSINESS ACT OF 1993.
12. PETROLEUM STORAGE TANK TRUST FUND BOND FINANCING ACT.
13. AFFORDABLE NEIGHBORHOOD HOUSING TAX CREDIT ACT OF 1997.
14. VENTURE CAPITAL INVESTMENT ACT OF 2001.
15. ARKANSAS BROWNFIELD REVOLVING LOAN FUND ACT.
16. ARKANSAS RISK CAPITAL MATCHING FUND ACT OF 2007. [REPEALED.]
17. ARKANSAS HOUSING TRUST FUND ACT OF 2009.
19. ARKANSAS STUDENT LOAN FINANCING ACT.

**SUBCHAPTER 1 — ARKANSAS DEVELOPMENT FINANCE AUTHORITY ACT —
GENERAL PROVISIONS**

SECTION.

15-5-103. Definitions.

15-5-103. Definitions.

As used in this subchapter, §§ 15-5-201 — 15-5-211, 15-5-213, 15-5-301 — 15-5-316, the Arkansas Development Finance Authority Bond Guaranty Act of 1985, § 15-5-401 et seq., and the Arkansas Development Finance Authority Small Business Act of 1989, § 15-5-701 et seq.:

(1) "Aggregate security value of the contract" means the amount determined by the party identified in and in the manner identified in an interest rate exchange agreement or similar agreement or contract that a proposed assignee would pay in United States currency to the Arkansas Development Finance Authority to assume the obligations of the authority under the interest rate exchange agreement or similar agreement or contract;

(2) "Agricultural business enterprises" means facilities and operations supporting farms, ranches, and other agricultural or silvicultural commodity producers, such as aquaculture, fish hatchery operations and fish farms, and related businesses and industries, including, but not limited to, grain elevators, shipping heads, livestock pens, warehouses and other storage facilities, related transportation facilities, drainage facilities, and any related facilities and operations thereto;

(3) "Authority" means the Arkansas Development Finance Authority created by § 15-5-201;

(4) "Board of directors" means the Board of Directors of the Arkansas Development Finance Authority created in § 15-5-202;

(5) "Bonds" means any bonds, notes, debentures, interim certificates, grant and revenue anticipation notes, commercial paper or other notes with maturities of one (1) year or less, interest in a lease, and lease certificates of participation or other evidences of indebtedness, whether or not the interest on them is subject to federal income taxation, issued by the authority;

(6) "Capital improvements" means, whether obtained by purchase, lease, construction, reconstruction, restoration, improvement, alteration, repair, or other means:

(A) Any physical public betterment or improvement or any preliminary plans, studies, or surveys relative thereto;

(B) Land or rights in land, including without limitation leases, air rights, easements, rights-of-way, or licenses; and

(C) Any furnishings, machinery, vehicles, apparatus, or equipment for any public betterment or improvement, which shall include without limiting the generality of the foregoing definition the following:

(i) Any and all facilities for state agencies, city or town halls, courthouses, and other administrative, executive, or public offices;

- (ii) Court facilities;
 - (iii) Jails;
 - (iv) Firefighting facilities and apparatus;
 - (v) Parking garages or other facilities;
 - (vi) Educational and training facilities for public employees;
 - (vii) Auditoriums, stadiums, convention halls, and similar public meeting or entertainment facilities;
 - (viii) Civil defense facilities;
 - (ix) Air and water pollution control facilities;
 - (x) Drainage and flood control facilities;
 - (xi) Storm sewers;
 - (xii) Arts and crafts centers;
 - (xiii) Museums;
 - (xiv) Libraries;
 - (xv) Public parks, playgrounds, or other public open space;
 - (xvi) Marinas;
 - (xvii) Swimming pools, tennis courts, golf courses, camping facilities, gymnasiums, and other recreational facilities;
 - (xviii) Tourist information and assistance centers;
 - (xix) Historical, cultural, natural, or folklore sites;
 - (xx) Fair and exhibition facilities;
 - (xxi) Streets and street lighting, alleys, sidewalks, roads, bridges, and viaducts;
 - (xxii) Airports, passenger or freight terminals, hangars, and related facilities;
 - (xxiii) Barge terminals, ports, harbors, ferries, wharves, docks, and similar marine services;
 - (xxiv) Slack water harbors, water resource facilities, waterfront development facilities, and navigation facilities;
 - (xxv) Public transportation facilities;
 - (xxvi) Public water systems and related transmission and distribution facilities, storage facilities, wells, impounding reservoirs, treatment plants, lakes, dams, watercourses, and water rights;
 - (xxvii) Sewage collection systems and treatment plants;
 - (xxviii) Maintenance and storage buildings and facilities;
 - (xxix) Police and sheriffs' stations, apparatus, and training facilities;
 - (xxx) Incinerators;
 - (xxxi) Garbage and solid waste disposal and compacting and recycling facilities of every kind; and
 - (xxxii) Social and rehabilitative facilities;
- (7) "Construct" means to acquire or build, in whole or in part, in such manner and by such method, including contracting therefor, and if the latter, by negotiation or bidding upon such terms and pursuant to such advertising as the authority shall determine to be in the public interest and necessary under the circumstances existing at the time to accomplish the purposes of and authority set forth in this subchapter;

(8) "Counterparty" means the party entering into the interest rate exchange agreement or similar agreement or contract with the authority;

(9) "Educational facilities" means real, personal, and mixed property of any and every kind intended by an educational institution in furtherance of its educational program, including, but not limited to, dormitories, classrooms, laboratories, athletic fields, administrative buildings, equipment, and other property for use therein or thereon;

(10) "Energy efficiency project" means the same as defined under the State Entity Energy Efficiency Project Bond Act, § 15-5-1801 et seq.;

(11) "Facilities" means any real property, personal property, or mixed property of every kind, including, without limiting the generality of the foregoing, rights-of-way, roads, streets, pipes, pipelines, reservoirs, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, instrumentalities, and other real, personal, or mixed property of every kind or any preliminary studies and surveys relative thereto;

(12) "Healthcare facilities" means facilities for furnishing physical or mental health care, including, without limitation:

(A) Hospitals, other facilities for the diagnosis and treatment of any illness or disease, offices and clinics of doctors of medicine, dentists, optometrists, podiatrists, chiropractors, and related facilities, and nursing homes and related facilities;

(B) Long-term care or life-care facilities for the elderly or disabled, including facilities used to furnish emergency medical health care and emergency medical services, including, but not limited to, ambulances or vehicles specifically designed, equipped, and licensed for transporting the sick or injured;

(C) Laboratories and other facilities for conducting healthcare-related research, including buildings and other facilities to support and sustain these activities;

(D) Equipment of every nature and kind related to health care, whether for diagnostic purposes, medical treatment, or research;

(E) Emergency medical equipment and supplies;

(F) Dispatching or other communication systems;

(G) Computers for billing, collections, and system design and control;

(H) Training and administrative facilities; and

(I) Healthcare project costs as defined in subdivision (13) of this section;

(13)(A)(i) "Healthcare project costs" specifically includes the refinancing of any existing debt of a healthcare facility necessary in order to permit the healthcare facility to borrow from the authority and give adequate security for the healthcare facility loan.

(ii) The determination of the authority with respect to the necessity of refinancing and adequate security for a healthcare facility loan is conclusive.

(B)(i) "Healthcare project costs" also includes the financing of working capital.

(ii) However, any healthcare facility loan to a healthcare facility located outside the state to finance working capital shall be made only if necessary to a program of working capital financing, including a healthcare facility loan to a healthcare facility located within the state.

(C) The determination of the authority with respect to the necessity of these healthcare facility loans to healthcare facilities located outside the state is conclusive.

(D) POOLED OR CONSOLIDATED FINANCINGS OF A NUMBER OF LOANS FOR HEALTHCARE FACILITIES.

(i) The authority may make loans for healthcare facilities located outside the state, provided:

(a) Loans under the same pooled or consolidated financing program are made under similar terms to healthcare facilities located within the state; and

(b) The authority's fees or charges, after deducting all appropriate expenses for providing the aggregated or pooled financings of healthcare facilities, are primarily dedicated to furthering the delivery of health care within the state.

(ii) The determination of the authority with respect to the necessity and appropriateness of the healthcare facility loans to healthcare facilities located either within or outside the state is conclusive.

(iii) The General Assembly declares that the authority acting as authorized under this section in making healthcare loans under the terms hereof is within the legislative findings and declaration of public necessity as set forth in § 15-5-102(b)(7).

(iv) Bonds issued by the authority under this subdivision (13)(D) shall not be exempt from taxes of the State of Arkansas;

(14)(A) "Housing development" means any work or undertaking, whether new construction or rehabilitation, that is designed and financed pursuant to the provisions of this subchapter for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for elderly persons and families of low or moderate income in need of housing.

(B) Such an undertaking may include any buildings, land, equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable appurtenances, such as, but not limited to, site preparation, landscaping, and other nonhousing facilities such as community and recreational facilities as the authority determines to be necessary, convenient, or desirable appurtenances, retirement homes, centers, and related facilities, nursing homes and related facilities, and long-term care or life-care facilities for the elderly or disabled;

(15)(A) "Industrial enterprise" means, but is not limited to, facilities and operations for manufacturing, producing, processing, assembling, repairing, extracting, warehousing, distributing, communications, computer services, the production of motion pictures and like products, technology-based enterprises, tourism enterprises, trans-

portation, corporate and management offices, and services provided in connection with any of the foregoing, in isolation or in any combination, that involve the creation of new or additional employment or the retention of existing employment, and industrial parks.

(B) However, a shopping center, retail store or shop, or other similar undertaking that is solely or predominantly of a commercial retail nature shall not be an industrial enterprise for the purposes of this subchapter;

(16) "Interest rate exchange agreement or similar agreement or contract" means a written contract entered into by the authority with one (1) or more counterparties that:

(A) Is related to the issuance of bonds by the authority or to bonds previously issued by the authority that are outstanding on the date of execution of the contract;

(B) Provides for an exchange of payments, denominated in United States currency, that is based upon fixed or variable interest rates; and

(C) Includes contracts and options related to any exchange of payments as determined by the authority under its rulemaking authority under § 15-5-317;

(17) "Loans" means loans made for the purposes of financing any of the activities authorized within this subchapter, including:

(A) Working capital and the acquisition of accounts, as "account" is defined in § 4-9-102, to finance working capital;

(B) Loans made to financial institutions for the purpose of funding or as security for loans made for the purpose of accomplishing any of the purposes of this subdivision (17);

(C) Loans made to nonprofit corporations and affiliated organizations for the purpose of such entities' providing funds and loans for healthcare project costs as defined in this section; and

(D) Reserves and expenses appropriate or incidental to all such loans described in this subdivision (17);

(18) "Operations" means any and all matters deemed necessary or desirable to the promotion of agricultural business and industrial enterprises, including, but not limited to, the provision of labor and services of any nature and all transactions pertaining to receivables, accounts, inventory, loans, lines of credit, and working capital, designed to promote, restore, revitalize, or develop existing agricultural business or industrial enterprises, or the establishment of new agricultural business or industrial enterprises;

(19) "Political subdivision" means a city of the first class, a city of the second class, an incorporated town, a county, or an improvement district, or any agency, board, commission, public corporation, or instrumentality of the above;

(20) "Scientific and technical services business" means a business:

(A) Primarily engaged in performing scientific and technical activities for others, including:

(i) Architectural and engineering design;

(ii) Computer programming and computer systems design; and
(iii) Scientific research and development in physical, biological, and engineering sciences;

(B) Selling expertise;

(C) Having production processes that are almost wholly dependent upon worker skills;

(D) Deriving at least seventy-five percent (75%) of its revenue from out-of-state sales; and

(E) Paying average hourly wages that exceed one hundred fifty percent (150%) of the county or state average wage, whichever is less;

(21) "Short-term advance funding" means the financing of temporary cash shortfalls of local governments based on the local government's projected monthly incomes and expenditures and its surplus at the beginning of each fiscal year, and the shortfall is the result of the local government's projected income's being insufficient to meet the needs of its estimated expenditures, even though the aggregate income will exceed the aggregate expenditures for the fiscal year;

(22) "State" means the State of Arkansas;

(23) "State agency" means any office, department, board, commission, bureau, division, public corporation, agency, or instrumentality of this state;

(24) "Technology-based enterprises" means:

(A)(i) A grouping of growing business sectors, identified as targeted businesses, that includes the following:

(a) Advanced materials and manufacturing systems;

(b) Agriculture, food, and environmental sciences;

(c) Biotechnology, bioengineering, and life sciences;

(d) Information technology;

(e) Transportation logistics; and

(f) Bio-based products.

(ii) In order to receive benefits as a targeted business, the business must pay not less than one hundred fifty percent (150%) of the lesser of the county or state average wage;

(B) A scientific and technical services business; or

(C) A corporation, partnership, limited liability company, sole proprietorship, or other legal entity whose primary business directly involves commercializing the results of research conducted in one (1) of the six (6) growing business sectors identified as targeted businesses; and

(25) "Tourism enterprise" means:

(A) Cultural and historic sites, recreational and entertainment facilities, areas of natural phenomena or scenic beauty, theme parks, amusement or entertainment parks, indoor or outdoor theatrical productions, botanical gardens, and cultural or educational centers; and

(B) Lodging facilities that are an integrated part of any of the enterprises listed in this subdivision (25).

History. Acts 1985, No. 1062, § 3.00; A.S.A. 1947, § 13-2903; Acts 1987, No. 780, § 1; 1989, No. 836, §§ 1-3; 1995, No. 1117, § 1; 1999, No. 429, §§ 1, 2; 2001, No. 1734, §§ 1-3; 2001, No. 1791, § 10; 2003, No. 494, § 1; 2005, No. 1232, § 6; 2013, No. 1252, § 2; 2017, No. 374, § 15.

Amendments. The 2017 amendment substituted “as ‘account’ is defined in § 4-9-102” for “as defined in § 4-9-106” in (17)(A).

SUBCHAPTER 2 — ARKANSAS DEVELOPMENT FINANCE AUTHORITY ACT — ADMINISTRATION

SECTION.

- 15-5-202. Board of directors — Members.
- 15-5-203. Board officers and employees.
- 15-5-204. Prohibition on personal interests in contracts.
- 15-5-207. Rights, powers, privileges, and duties of authority — Definitions.

SECTION.

- 15-5-210. Annual report.
- 15-5-212. Approval of Legislative Council for certain matters.
- 15-5-213. Correction Facilities Construction Fund.
- 15-5-214. Criminal background check.

Effective Dates. Acts 2017, No. 824, § 19: July 1, 2017.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emer-

gency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-5-202. Board of directors — Members.

(a)(1) The Board of Directors of the Arkansas Development Finance Authority shall consist of the Secretary of the Department of Finance and Administration or his or her designee, who shall serve during the Secretary of the Department of Finance and Administration’s absence, eleven (11) public members to be appointed by the Governor with the advice and consent of the Senate, and the Secretary of the Department of Commerce who shall serve as a nonvoting member.

(2) The members appointed by the Governor shall be residents of the state and shall have been qualified electors therein for at least one (1) year preceding the time of appointment and shall be recognized by their peers as outstanding in the field of economic development or development finance.

(3) Each congressional district in the state shall be represented by at least one (1) public member of the board.

(4)(A) One (1) public member of the board shall be a representative of the agricultural business enterprise industry.

(B) One (1) public member shall be a representative of the state's elderly population who is:

(i) Sixty (60) years of age or older; and

(ii) Not actively engaged in or retired from the operation of an agricultural business enterprise.

(C) The public members appointed under subdivisions (a)(4)(A) and (B) of this section shall be:

(i) Selected from the state at large subject to confirmation by the Senate; and

(ii) Full voting members of the Arkansas Development Finance Authority.

(5) The additional public member added by this section shall be a public housing or community development professional actively engaged in that profession, and that person must not be a member of any public housing board.

(6) In addition to the other members of the board, the Treasurer of State or his or her designee, who shall serve during the Treasurer of State's absence, shall serve as an ex officio voting member of the board.

(b) The Governor shall appoint public members of the board to terms of four (4) years.

(c)(1) Each board member shall hold office for the term of his or her appointment and until his or her successor shall have been appointed and qualified.

(2) Any vacancy in the board occurring other than by expiration of term shall be filled by appointment by the Governor, but for the unexpired term only.

(3) The terms of the members of the board shall expire on January 14.

(d)(1) Each appointed public board member may be removed from office by the Governor for cause after a public hearing and may be suspended by the Governor pending the completion of the hearing.

(2)(A) Before entering upon his or her duties, each board member shall take and subscribe to an oath to perform the duties of his or her office faithfully, impartially, and justly to the best of his or her ability.

(B) A record of the oath shall be filed in the office of the Secretary of State.

(e) The members of the board shall serve without compensation, but the authority may reimburse its board members for expenses in accordance with § 25-16-901 et seq.

History. Acts 1985, No. 1062, § 4.00; A.S.A. 1947, §§ 6-616, 6-623, 13-2904; Acts 1989, No. 885, § 3; 1989 (1st Ex. Sess.), No. 36, § 17; 1993, No. 159, § 1; 1995, No. 433, § 1; 1997, No. 218, § 1; 1997, No. 250, § 98; 2015, No. 1060, §§ 2, 3; 2019, No. 910, § 436.

Amendments. The 2019 amendment, in (a)(1), substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" and "Secretary of the Department of Finance and Administration's" for "director's", deleted

"and" preceding "eleven", and added "the Secretary of the Department of Commerce who shall serve as a nonvoting member".

15-5-203. Board officers and employees.

(a) Annually and at such other times as may be deemed appropriate by the Board of Directors of the Arkansas Development Finance Authority, the board shall elect from the public members of the board appointed by the Governor one (1) of its members as chair and one (1) of its members as vice chair.

(b) The board shall also employ a president who shall serve at the will of the Governor.

(c) The board shall in consultation with the Secretary of the Department of Commerce appoint and employ such additional officers, accountants, financial advisors or experts, bond counsel, or other attorneys, agents, and employees as it may require and shall determine their qualifications, duties, and compensation. Periodically, the Arkansas Development Finance Authority will review selection of bond counsel or other attorneys to ensure that legal representatives are selected in a manner that will provide the authority with competent, economical legal representation that furthers the best interest of the authority.

(d) The President of the Arkansas Development Finance Authority shall be an ex officio nonvoting member of the board and may be elected secretary of the board.

History. Acts 1985, No. 1062, § 4.00; inserted "in consultation with the Secretary of the Department of Commerce" in the first sentence of (c).
A.S.A. 1947, § 13-2904; Acts 2019, No. 910, § 437.

Amendments. The 2019 amendment

15-5-204. Prohibition on personal interests in contracts.

(a)(1) No officer or employee of the Arkansas Development Finance Authority for purpose of personal gain shall have or attempt to have, directly or indirectly, any interest in any contract or agreement of the authority in connection with the sale or purchase of any bonds or investments of the authority.

(2) The General Assembly finds and declares, in furtherance of the public purposes set forth in § 15-5-201, that it shall not be deemed a violation of the provisions of this section if any member of the Board of Directors of the Arkansas Development Finance Authority or any firm owned by a member or by which a member is employed, shall participate in any program of the authority, provided that such participation shall be on the same terms and subject to the same conditions governing all other participants in the program.

(b) Any member, officer, employee, or agent of the authority who is found guilty of violating this section is barred from public employment in the state in any capacity for a period of five (5) years from the date he or she was found guilty of violating this section, in addition to such other penalties as may be provided by law.

History. Acts 1985, No. 1062, § 20.00; in (b), substituted “found guilty of violating this section” for “adjudged guilty of the misdemeanor”; and made stylistic changes.
A.S.A. 1947, § 13-2920; Acts 2017, No. 374, § 16.

Amendments. The 2017 amendment,

15-5-207. Rights, powers, privileges, and duties of authority — Definitions.

(a) The Arkansas Development Finance Authority shall have such rights, powers, and privileges and shall be subject to such duties as provided by this chapter.

(b) Except as otherwise limited by this chapter, the authority shall have the following powers:

- (1) To sue;
- (2) To be sued;
- (3) To have a seal and alter the seal at its pleasure;
- (4) To make and alter bylaws for its organization and internal management;
- (5) To make and issue such rules as may be necessary or convenient in order to carry out the purposes of this chapter;
- (6) To acquire, hold, and dispose of real and personal property for its corporate purposes;
- (7) [Repealed.]
- (8) To borrow money and to issue notes, bonds, and other obligations, whether or not the interest on which is subject to federal income taxation, and to provide for the rights of the lenders or holders thereof;
- (9) To issue bonds on behalf of state agencies and political subdivisions;
- (10)(A) To issue bonds to provide financing for a specific activity or particular project authorized under this chapter or to provide on a pooled or consolidated basis financing for activities or projects authorized under this chapter that shall be secured by and payable solely from all or any portion of the following:
 - (i) Proceeds of the bonds;
 - (ii) Reserves established in connection with the bonds;
 - (iii) Lease or loan payments;
 - (iv) Revenues of the authority that are not derived from appropriations; and
 - (v) Obligations issued by or payable to the state agencies, political subdivisions of the state, or others for whose benefit the authority may issue bonds, and the security and sources of payments of the obligations.
- (B)(i) The authority may also issue bonds for the purpose of generating investment earnings or other income.
- (ii) The investment earnings or other income shall thereafter be used to finance activities or projects authorized in this section.
- (C) Prior to the engagement of a financial institution to serve as trustee, paying agent, or in any fiduciary capacity in connection with any program, indenture, or general resolution of the authority, the

authority shall request proposals for services, and the selection of the financial institution shall be made on the basis of the response to such a request that is the most economical and in the best interest of the authority;

(11) To purchase notes or participations in notes evidencing loans that are secured by mortgages or security interests and to enter into contracts in that regard, or to purchase accounts to finance working capital;

(12)(A) To make secured or unsecured loans, including loans made to financial institutions to secure loans made by the financial institutions for qualifying agricultural business enterprises, capital improvements, educational facilities, energy enterprises, healthcare facilities, housing developments, industrial enterprises, and short-term advance funding of local government obligations.

(B) Prior to the making of any loan for qualifying agricultural business enterprises or industrial enterprises, the loan transaction shall be recommended to the authority by a financial institution or investment banker;

(13) To sell mortgages and security interests at public or private sale, to negotiate modifications or alterations in mortgage and security interests, to foreclose on any mortgage or security interest in default or commence any action to protect or enforce any right conferred upon it by any law, mortgage, security agreement, contract, or other agreement, and to bid for and purchase property that was the subject of such a mortgage or security interest at any foreclosure or at any other sale, to acquire or take possession of any such property, and to exercise any and all rights as provided by law for the benefit or protection of the authority or mortgage holders;

(14) To collect fees and charges in connection with its loans, bond guaranties, commitments, and servicing, including, but not limited to, reimbursement of costs of financing as the authority shall determine to be reasonable and as shall be approved by the authority;

(15) To make and execute contracts for the servicing of mortgages acquired by the authority pursuant to this chapter and to pay the reasonable value of services rendered to the authority pursuant to those contracts;

(16) To accept gifts, grants, loans, and other aid from the United States Government, the state or any state agency, or any political subdivision of the state, or any person or corporation, foundation, or legal entity and to agree to and comply with any conditions attached to federal and state financial assistance not inconsistent with the provisions of this chapter;

(17) To invest moneys of the authority, including proceeds from the sale of any bonds, in such manner as the Board of Directors of the Arkansas Development Finance Authority shall determine, subject to any agreement with bondholders stated in the authorizing resolution, as defined in § 15-5-309, providing for the issuance of bonds;

(18) To procure insurance against any loss in connection with its programs, property, and other assets;

(19) To provide technical assistance and advice to the state, political subdivisions of the state, and local governing authorities and to enter into contracts with the state, political subdivisions of the state, and local governing authorities to provide such services. The state, political subdivisions of the state, and local governing authorities are authorized to enter into contracts with the authority for such services and to pay for such services as may be provided them;

(20)(A) To contract, cooperate, or join with any one (1) or more other governments or public agencies or with any political subdivisions of the state or with the United States to perform any administrative service, activity, or undertaking that any such contracting party is authorized by law to perform, including the issuance of bonds.

(B) An "intergovernmental agreement" is defined as any service contract entered into by a contracting party that establishes a permanent perpetual relationship thereby obligating the financial resources of the contracting party.

(C) As used in this chapter, "permanent or perpetual relationship" means any agreement exhibiting an effective duration greater than one (1) year, twelve (12) calendar months, or an agreement exhibiting no fixed duration but when the apparent intent of such an agreement is to establish a permanent or perpetual relationship. Such intergovernmental agreements shall be authorized by ordinance or resolution of the contracting party. Any intergovernmental agreement enacted may provide for the contracting party to:

(i) Cooperate in the exercise of any function, power, or responsibility;

(ii) Share the services of any officer, department, board, employee, or facility; and

(iii) Transfer or delegate any function, power, responsibility, or duty.

(D) An intergovernmental agreement shall be authorized and approved by the governing body of each party to the intergovernmental agreement, shall set forth fully the purposes, powers, rights, obligations, and responsibilities of the contracting parties, and shall specify the following:

(i) Its duration;

(ii) The precise organization, composition, and nature of any separate legal entity created;

(iii) The purpose or purposes of the intergovernmental agreement;

(iv) The manner of financing the joint or cooperative undertaking and establishing and maintaining a budget;

(v) The permissible method or methods to be employed in accomplishing the partial or complete termination of an intergovernmental agreement and for disposing of property upon partial or complete termination. The method or methods for termination shall include a requirement of six (6) months' written notification of the intent to withdraw by the governing body of the public agency wishing to withdraw;

(vi) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking, including representation of the contracting parties on the joint board;

(vii) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking; and

(viii) Any other necessary and proper matters.

(E)(i) Every intergovernmental agreement prior to and as a condition precedent to its final adoption and performance shall be submitted to the Attorney General, who shall determine whether the intergovernmental agreement is in proper form and compatible with the laws of the State of Arkansas.

(ii) The Attorney General shall approve any intergovernmental agreement submitted to him or her unless he or she finds it does not meet the conditions set forth in this section and shall detail in writing addressed to the governing bodies of the public agencies concerned the specific respects in which the proposed intergovernmental agreement fails to meet the requirements of law.

(iii) Failure to disapprove an intergovernmental agreement within thirty (30) days of its submission shall constitute approval;

(21) To undertake and carry out studies and analyses of agricultural business, industrial, health care, housing, energy, educational, capital improvement, and local governments' short-term advance funding needs within the state and ways of meeting such needs;

(22) To establish accounts in one (1) or more depositories;

(23) To lease, acquire, construct, sell, and otherwise deal in and contract concerning any facilities;

(24) To accept funds for and participate in federal and other governmental programs established for the purpose of the promotion and development of agricultural business, industry, the provision of decent, safe, and sanitary housing, health care, education, tourism, capital improvements, and related matters;

(25) To have and exercise all of the powers granted to the public housing authorities by the state, except that the authority shall not have the power of eminent domain;

(26) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this chapter;

(27)(A) To assist minority businesses in obtaining loans or other means of financial assistance.

(B) The terms and conditions of such loans or financial assistance, including the charges for interest and other services, will be consistent with the provisions of this chapter.

(C) In order to comply with this requirement, efforts must be made to solicit for review and analysis proposed minority business ventures.

(D) Be it further provided that basic loan underwriting standards will not be waived to inconsistently favor minority persons or businesses from the intent of the authority's lending practices;

(28) To create nonprofit corporations that shall have such purposes and powers as the board shall determine, to assist in carrying out the

purposes of this chapter, and to provide technical, administrative, and financial assistance to those nonprofit corporations;

(29) To make secured or unsecured loans to or to guarantee the payment of loans made to businesses for the purpose of financing the export of goods to foreign countries if the board shall first find that a substantial portion of the value of those goods prior to export has been or will be added in the state;

(30) To make loans and enter into contracts with respect to, and issue bonds on behalf of, nonprofit organizations, including the issuance of qualified 501(c)(3) bonds as defined in the Internal Revenue Code, 26 U.S.C. § 1 et seq.;

(31) To make loans and enter into contracts with respect to, and issue bonds on behalf of, scientific and technical services businesses, technology-based enterprises, and tourism enterprises;

(32) To administer the allocation of the state ceiling of private activity bonds, as that term is defined in the Tax Reform Act of 1986, which are subject to volume limitations under federal law, including particularly the limitations under 26 U.S.C. § 146;

(33) To enter into an interest rate exchange agreement or similar agreement or contract;

(34) Make, acquire, take, or purchase guaranteed education loans and education loans with the proceeds of bonds, notes, or any other funds of the authority available or any interest or participation in it:

(A) In any amount;

(B) At any price; and

(C) Upon any terms and conditions the authority determines necessary;

(35) Sell guaranteed educational loans or educational loans held by the authority to governmental or private financial institutions;

(36) Borrow from governmental or private financial institutions against the security of the guaranteed educational loans or education loans:

(A) In any amount;

(B) At any price; and

(C) Upon any terms and conditions the authority determines necessary;

(37) Consent to the modification with respect to security, rate of interest, time of payment of interest or principal, or any other terms of an obligation, bond, note, contract, or agreement between the authority and the recipient or maker of the loan, obligation, bond, note holder, agency, or institution guaranteeing the repayment, purchasing, or selling of a guaranteed educational loan or education loan, when the authority determines it is necessary, subject to a contract with the holders of the bond holders, note holders, or contractees;

(38) Collect fees and charges in connection with loans, commitments, and servicing, including without limitation the reimbursement of the cost of financing, as determined reasonable and approved by the authority;

(39) Service student loan programs administered by the authority or in which the authority participates or make and execute contracts with an agency, financial institution, or corporation organized under the laws of any state, where the agency, financial institution, or corporation shall service student loan programs administered by the authority or in which the authority participates;

(40) Enter into contracts with schools, lenders, individuals, corporations, other agencies of the state, other states, the United States Department of Education, and other agencies of the United States Government to service educational loans or guaranteed educational loans, regardless of where the loans originated;

(41) Conduct studies and analyses of student loan funding needs within the state and options for meeting student loan funding needs;

(42) Participate in nonprofit and private programs and federal and other governmental programs established for the purpose of the promotion and development of higher education, student loans, and related matters;

(43) Enter into contracts to guarantee educational loans, establish reserve accounts related to guaranty agreements, and adopt rules and criteria for guaranties; and

(44) Enter into contracts with schools, lenders, individuals, corporations, other agencies of the state, other states, the United States Department of Education, and other agencies of the United States Government for the purpose of the promotion and development of higher education, student loans, and related matters.

(c) Applications filed with the authority for direct loans, tax credits, qualified investments, and requests for proposals shall be treated, handled, and considered in the same manner as loan applications under § 15-5-409.

History. Acts 1985, No. 1062, §§ 4.00, 5.00; 1986 (2nd Ex. Sess.), No. 18, § 1; A.S.A. 1947, §§ 13-2904, 13-2905; Acts 1987, No. 900, §§ 2-4; 1989, No. 836, § 4; 2001, No. 1044, § 6; 2003, No. 494, § 2; 2007, No. 593, § 1; 2013, No. 1252, § 3; 2015, No. 1060, §§ 4-6; 2017, No. 824, §§ 3-9; 2019, No. 910, § 438.

Amendments. The 2017 amendment substituted “chapter” for “subchapter and §§ 15-5-101 — 15-5-106 and 15-5-301 — 15-5-316” in (a), the introductory lan-

guage of (b), (b)(5), (b)(15), (b)(16), and (b)(26) through (b)(28); deleted “and regulations” following “rules” in (b)(5); substituted “As used in this chapter, ‘permanent or perpetual relationship’ means” for “The term ‘permanent or perpetual relationship’ is defined for purposes of this subchapter and §§ 15-5-101 — 15-5-106 and 15-5-301 — 15-5-316 as” in (b)(20)(C); and added (b)(34) through (b)(44).

The 2019 amendment repealed (b)(7).

15-5-210. Annual report.

(a) On or before January 31 of each year, the Arkansas Development Finance Authority shall make an annual report of its activities for the preceding fiscal year to the Secretary of the Department of Commerce and to the General Assembly.

(b) The report shall contain an audit of the preceding fiscal year prepared by an independent certified public accountant acceptable to the bond rating agency used by the authority.

History. Acts 1985, No. 1062, § 18.00; A.S.A. 1947, § 13-2918; Acts 1995, No. 783, § 1; 2003, No. 1037, § 1; 2019, No. 910, § 439.

Amendments. The 2019 amendment substituted "Secretary of the Department of Commerce" for "Governor" in (a).

15-5-212. Approval of Legislative Council for certain matters.

(a) The Arkansas Development Finance Authority or the Secretary of the Department of Commerce on behalf of the authority shall not employ or select any investment banker, consultant, professional financial advisor, or attorney unless the selection criteria to be used in the selection have been submitted to the Legislative Council for review.

(b)(1) As soon as practicable after closing any new bond issue, the authority shall submit a program fact sheet for the new bond issue to the Legislative Council for its review. The program fact sheet shall include, but not be limited to, the fees, interest rates, average coupon life of the securities, and gross spread for the new bond issue.

(2) A copy of each program fact sheet shall be submitted to Arkansas Legislative Audit at the same time that the program fact sheet is submitted to the Legislative Council.

History. Acts 1989 (1st Ex. Sess.), No. 36, § 11; 2005, No. 683, § 1; 2019, No. 910, § 440.

inserted "or the Secretary of the Department of Commerce on behalf of the Arkansas Development Finance Authority" in (a).

Amendments. The 2019 amendment

15-5-213. Correction Facilities Construction Fund.

(a) There is established on the books of the Arkansas Development Finance Authority a special restricted fund to be known as the "Correction Facilities Construction Fund". This fund shall be administered in accordance with the provisions of this section.

(b) The fund shall receive moneys payable from the Treasurer of State in accordance with § 15-5-422. All moneys deposited into the fund and all income, interest, and earnings therefrom are declared to be cash funds restricted in their use and dedicated and are to be used solely for acquisition and construction of regional correction facilities for use by the Division of Correction, specifically including a regional correction facility in Chicot County, which facility will be leased to and utilized by the division.

(c) The fund shall be held and the amounts therein invested by the authority only in accordance with this section. The moneys in the fund shall be invested by the authority in accordance with the restrictions established for the Bond Guaranty Reserve Account provided for in § 15-5-407. The fund and the moneys in the fund shall not be part of the general funds of the authority subject to claims of the general creditors of the authority. The fund may be pledged by the authority upon proper

authorization of the Board of Directors of the Arkansas Development Finance Authority only to secure repayment of obligations of the authority, the proceeds of which are used to construct or acquire correction facilities as specified in subsection (b) of this section.

(d) After July 1, 2008, as the authority no longer has outstanding obligations, the proceeds of which have been used to construct and acquire correction facilities as specified in subsection (b) of this section, all amounts remaining in the fund shall be paid by the authority to the Treasurer of State.

(e)(1) There is created within the fund an account entitled the "Correction Facilities Privatization Account", and the Correction Facilities Privatization Account shall receive:

(A) Moneys payable from funds in the division as established in § 12-27-128;

(B) Such moneys as are transferred pursuant to § 22-3-1210(c); and

(C) Such cash funds of the division as are deemed necessary by the Chief Fiscal Officer of the State for the purposes established herein.

(2) All moneys deposited into the Correction Facilities Privatization Account and all income, interest, and earnings therefrom are declared to be cash funds restricted in their use and dedicated to be used solely for acquisition, construction, and rehabilitation of correction facilities for the use and benefit of the division or for payments to private contractors for the use of correction facilities by the division.

(3) The moneys deposited into the Correction Facilities Privatization Account shall not be subject to the provisions of subsection (d) of this section.

(4) The Correction Facilities Privatization Account shall not be subject to distribution to the Treasurer of State, and the Correction Facilities Privatization Account shall remain as an account of the authority.

History. Acts 1988 (3rd Ex. Sess.), No. 31, § 1; 1995 (1st Ex. Sess.), No. 9, § 3; 2019, No. 910, §§ 848-851.

Amendments. The 2019 amendment substituted "Division of Correction" for

"Department of Correction" in the second sentence of (b); and substituted "division" for "department" in the second sentence of (b), and throughout (e).

15-5-214. Criminal background check.

(a) The Arkansas Development Finance Authority may require a state and federal criminal background check, which shall conform to the applicable federal standards and shall include the taking of fingerprints of an:

(1) Applicant of a program administered by the authority, including individual members of an entity that may participate in a program administered by the authority;

(2) Applicant for employment with the authority; or

(3) Employee of the authority.

(b) The criminal background check shall be performed through the Identification Bureau of the Division of Arkansas State Police and the Federal Bureau of Investigation.

(c) Prior to a criminal background check, the applicant or employee shall sign a release authorizing the background check.

(d) The results of the background check shall be used by the authority to determine the fitness or suitability of:

(1) The applicant for participation in an authority program or for employment with the authority; or

(2) An employee for continued employment with the authority.

(e) The authority shall treat the criminal background information of an applicant or employee as confidential.

(f) A criminal background check obtained under this section shall be destroyed by the authority within six (6) months of the receipt of the background check.

(g) The authority shall promulgate rules for the requesting and use of criminal background checks under this section.

History. Acts 2005, No. 2173, § 1; substituted “Division of Arkansas State Police” for “Department of Arkansas State Police” in (b).
2019, No. 910, § 441.

Amendments. The 2019 amendment

SUBCHAPTER 3 — ARKANSAS DEVELOPMENT FINANCE AUTHORITY ACT —
BONDS

SECTION.

15-5-301. Power to issue bonds.
15-5-303. Exclusive issuer of revenue bonds for public facilities.

SECTION.

15-5-305. Authorized investors.
15-5-312. Statement on face of bond — Security.

Effective Dates. Acts 2017, No. 269, § 13: Feb. 22, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Department of Parks and Tourism is well-positioned to oversee and promote War Memorial Stadium; that the transfer of War Memorial Stadium to the Department of Parks and Tourism promotes efficiency; and that this act is immediately necessary in order to ensure a timely transition to minimize any adverse impact on upcoming events to be held at

War Memorial Stadium. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

15-5-301. Power to issue bonds.

(a) The Arkansas Development Finance Authority is authorized and empowered to issue bonds, whether or not the interest on the bonds is subject to federal income taxation, either for a specific activity or for a

particular project or on a pooled or consolidated basis for a series of related or unrelated activities or projects in such amounts as shall be determined by the authority for the purpose of enhancing the Public School Fund or financing qualified agricultural business enterprises, capital improvement facilities, educational facilities, healthcare facilities, housing developments, industrial enterprises, exports of goods and short-term advance funding of local government obligations, scientific and technical services businesses, technology-based enterprises, tourism enterprises, nonprofit organizations, energy efficiency projects, or any combination of those facilities or enterprises, or any interest in facilities, including without limitation leasehold interests in and mortgages on those facilities.

(b) However, nothing in this subchapter and §§ 15-5-101 — 15-5-106, 15-5-201 — 15-5-211, and 15-5-213 shall be construed to authorize the authority to issue or sell revenue bonds or use the proceeds thereof to purchase, condemn, or otherwise acquire a utility plant or distribution system owned or operated by a regulated public utility.

History. Acts 1985, No. 1062, § 6.00; 1986 (2nd Ex. Sess.), No. 18, § 2; A.S.A. 1947, § 13-2906; Acts 1987, No. 900, § 5; 2007, No. 593, § 2; 2013, No. 1252, § 4; 2017, No. 824, § 10.

Amendments. The 2017 amendment deleted former (a)(2) and redesignated former (a)(1) as present (a).

15-5-303. Exclusive issuer of revenue bonds for public facilities.

It is the intention of the General Assembly that the Arkansas Development Finance Authority shall be the exclusive issuer of revenue bonds for public facilities acquired or constructed for the benefit of state agencies, except the respective boards of trustees of state-supported institutions of higher education, the Career Education and Workforce Development Board, the State Board of Finance, and the Arkansas Economic Development Council when issuing bonds pursuant to §§ 15-4-604, 15-4-605, and 15-4-608, and the Industrial Development Guaranty Bond Act, § 15-4-701 et seq.

History. Acts 1985, No. 1062, § 24.00; A.S.A. 1947, § 13-2922; Acts 2007, No. 827, § 132; 2017, No. 269, § 2; 2017, No. 824, § 11.

Amendments. The 2017 amendment by No. 269 deleted “the War Memorial Stadium Commission” following “State Board of Finance”.

The 2017 amendment by No. 824 deleted “the Arkansas Student Loan Authority” following “except” and “the War Memorial Stadium Commission” preceding “and the Arkansas Economic Development Council”.

15-5-305. Authorized investors.

(a) Any municipality or any board, commission, or other authority duly established by ordinance of any municipality or the boards of trustees, respectively, of the firemen’s relief and pension funds and the policemen’s pension and relief fund of any such municipality or the

board of trustees of any retirement system created by the General Assembly, in its discretion, may invest any of its funds not immediately needed for its purposes in bonds issued under the provisions of this subchapter and §§ 15-5-101 — 15-5-106, 15-5-201 — 15-5-211, and 15-5-213, and bonds issued under the provisions of this subchapter and §§ 15-5-101 — 15-5-106, 15-5-201 — 15-5-211, and 15-5-213 shall be eligible to secure the deposit of public funds.

(b) All the obligations issued under this subchapter are legal and authorized investments for:

- (1) Banks;
- (2) Savings banks;
- (3) Trust companies;
- (4) Savings and loan associations;
- (5) Insurance companies;
- (6) Fiduciaries;
- (7) Trustees and guardians;
- (8) Any municipality or any board, commission, or other authority established by ordinance of any municipality or the boards of trustees of any municipality;
- (9) The firemen's relief and pension funds of any municipality;
- (10) The policemen's pension and relief fund of any municipality; or
- (11) The board of trustees for any retirement system created by the General Assembly.

History. Acts 1985, No. 1062, § 17.00; **Amendments.** The 2017 amendment A.S.A. 1947, § 13-2917; 2017, No. 824, added (b); and made stylistic changes. § 12.

15-5-312. Statement on face of bond — Security.

(a) It shall be plainly stated on the face of each bond that it has been issued under this subchapter, that the bonds shall be obligations only of the Arkansas Development Finance Authority, and that in no event shall the bonds constitute an indebtedness of the State of Arkansas or an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged or an indebtedness secured by lien on or a security interest in any property of the state.

(b) The payment of the bonds' principal, redemption premium, if any, interest, and trustee's and paying agent's fees may be secured by any combination of:

- (1) A lien on any security interest in facilities financed by bonds issued under this subchapter;
- (2) A lien encumbering or pledge of loans made or mortgages purchased by the authority;
- (3) A pledge of revenues of the authority that are not derived from appropriations;
- (4) Collateral security received by the authority, including without limitation, the authority's interest in and revenue derived from loan agreements;

(5) A pledge of revenues derived from or by reason of ownership of guaranteed educational loan notes, educational loan notes, any loan agreements relating to guaranteed educational loans or educational loans, and the interest and revenue from the loan agreements; and

(6) A lien encumbering or pledge of the proceeds of the bonds and any reserves established in connection with the bonds.

(c) It shall not be necessary to the perfection of the lien and pledge for such purposes that the trustee in connection with the bond issue or the holders of the bonds take possession of the loans, notes, loan agreements, mortgages, and collateral security.

History. Acts 1985, No. 1062, § 8.00; A.S.A. 1947, § 13-2908; Acts 2015, No. 1060, § 8; 2017, No. 824, § 13.

Amendments. The 2017 amendment

added (b)(5); redesignated former (b)(5) as present (b)(6); inserted “notes, loan agreements” in (c); and made a stylistic change.

SUBCHAPTER 4 — ARKANSAS DEVELOPMENT FINANCE AUTHORITY BOND GUARANTY ACT OF 1985

SECTION.

15-5-406. Standards and rules for evaluations.

15-5-407. Bond Guaranty Reserve Account — Investment of funds.

SECTION.

15-5-413. Rules — Remedies.

15-5-406. Standards and rules for evaluations.

The Arkansas Development Finance Authority shall promulgate standards and rules for the evaluation of the financial condition and business history of developers and may require the attachment to each application for guaranty under this subchapter of a financial report and evaluation by an independent certified public accounting firm, in addition to such examination and evaluation as the authority may make, in determining whether the developer meets prescribed minimum standards and qualifications before entering into any guaranty under this subchapter.

History. Acts 1985, No. 340, § 5; 1985, No. 505, § 5; A.S.A. 1947, § 13-2928; Acts 1987, No. 1042, § 3; 2019, No. 315, § 1077.

Amendments. The 2019 amendment substituted “rules” for “regulations” in the section heading and in the text.

15-5-407. Bond Guaranty Reserve Account — Investment of funds.

(a)(1) The Arkansas Development Finance Authority may establish a Bond Guaranty Reserve Account in an Arkansas financial institution or institutions that are members of the Federal Deposit Insurance Corporation.

(2) The account shall be in the name of the authority, and the amount in the account in excess of that insured by the Federal Deposit

Insurance Corporation shall be secured by, and the authority may invest account funds in:

(A) Direct obligations of, or obligations which are guaranteed by, the United States;

(B) Obligations, debentures, notes, or other evidences of indebtedness issued or guaranteed by any of the following:

(i) Bank for Cooperatives;

(ii) Export-Import Bank of the United States;

(iii) Federal Financing Bank;

(iv) Federal Home Loan Bank System;

(v) Federal Home Loan Mortgage Corporation;

(vi) Federal Housing Administration;

(vii) Federal Intermediate Credit Bank;

(viii) Federal Land Bank;

(ix) Federal National Mortgage Association; or

(x) Government National Mortgage Association;

(C) Repurchase agreements with financial institutions acting as principal or agent for securities described in this subsection if the securities are delivered to the authority or trustee on its behalf;

(D) Obligations issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States or temporary notes, preliminary loan notes, or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States;

(E) Certificates of deposit or time deposits or similar banking arrangements with a bank or banks or savings and loan association or associations, insured by the Federal Deposit Insurance Corporation; and

(F) Investment agreements, capital notes, or banking arrangements with financial institutions or holding companies of financial institutions approved by the Board of Directors of the Arkansas Development Finance Authority, and to provide for the sale of any such investment agreements, capital notes, or banking arrangements and for the reinvestment of the proceeds of the sale.

(b)(1) All moneys received by the authority under and pursuant to the provisions of this subchapter shall be deposited as and when received into the account.

(2) It is the intent of this subchapter that idle funds in the account shall be invested as provided in this section in order that maximum interest return may be received by the account.

(c) All moneys now or hereafter deposited into or paid to the authority for deposit into the account are specifically declared to be cash funds; received from sources other than taxes, restricted in their use and shall not be deposited into the State Treasury but shall be deposited into one (1) or more banks, as set forth in this section.

History. Acts 1985, No. 340, § 6; 1985, No. 505, § 6; A.S.A. 1947, § 13-2929; Acts 2017, No. 374, §§ 17, 18.

Amendments. The 2017 amendment, deleted “or the Federal Savings and Loan Insurance Corporation [abolished]” at the end of (a)(1); substituted “shall” for “or the Federal Savings and Loan Insurance Corporation [abolished] must” in the introductory language of (a)(2); deleted

(a)(2)(B)(iii) and redesignated the remaining subdivisions accordingly; in (a)(2)(E), inserted “or savings and loan association or associations” and deleted “or savings and loan association or associations insured by the Federal Savings and Loan Insurance Corporation [abolished]” preceding “; and”; inserted “agreements, capital notes, or banking arrangements” in (a)(2)(F); and made stylistic changes.

15-5-413. Rules — Remedies.

(a) The Arkansas Development Finance Authority is authorized and directed to conduct such investigation as it may determine necessary for the promulgation of rules to govern the operation of the guaranty program authorized by this subchapter. The rules shall include the restriction and conditions imposed by this subchapter, including particularly those set forth in §§ 15-5-405 and 15-5-412, and may include such other and additional provisions, restrictions, and conditions as the authority, after the investigation referred to in this subsection, shall determine to be proper to achieve the most effective utilization of the guaranty program authorized by this subchapter, including, without limitation, a detailing of:

(1) The remedies that must be exhausted by the bondholders or a trustee acting in their behalf prior to calling upon the authority to perform under its guaranty agreement; and

(2) The subrogation or other rights of the authority with reference to the project and its operation in the event the authority makes payment pursuant to the applicable guaranty agreement.

(b) In this regard, the authority is expressly authorized to take such action and enter into such agreements and otherwise take such action as may be necessary to exercise the authority conferred by this subchapter or to evidence the exercise thereof.

(c) The rules promulgated by the authority to govern the operation of the guaranty program shall contain specific provisions with respect to the rights of the authority to enter, take over, and manage the project and its properties upon default, and shall set forth the respective rights of the authority and the bondholders in regard thereto.

(d) Such rules shall be in conformity with this subchapter.

History. Acts 1985, No. 340, § 10; 1985, No. 505, § 10; A.S.A. 1947, § 13-2933; Acts 2019, No. 315, § 1078.

Amendments. The 2019 amendment

substituted “Rules” for “Regulations” in the section heading and substituted “rules” for “regulations” throughout the section.

SUBCHAPTER 6 — ALLOCATION OF STATE CEILING

SECTION.	SECTION.
15-5-603. Aggregate percentages allocated.	15-5-605. Special rules for allocation of volume cap for multifamily residential housing bonds.
15-5-604. Filing by issuer of reservation of volume cap and notice of issuance of bonds.	

15-5-603. Aggregate percentages allocated.

(a) The aggregate of the state ceiling for the State of Arkansas for each calendar year shall be allocated on a percentage basis as follows:

(1) The Arkansas Development Finance Authority is allocated for calendar year 2001 and for each year thereafter the following amounts for the purposes stated:

- (A) For multifamily residential housing, ten percent (10%) of the aggregate state ceiling;
- (B) For single family residential housing, seventeen percent (17%) of the aggregate state ceiling;
- (C) For industrial development, thirty-three percent (33%) of the aggregate state ceiling; and
- (D) For student loan financing, ten percent (10%) of the aggregate state ceiling.

(2) However, the authority, by resolution of the Board of Directors of the Arkansas Development Finance Authority, may provide that the total amount of seventy percent (70%) of the aggregate state ceiling allocated to the authority for calendar years 2001 and thereafter may be redistributed among the purposes stated in amounts other than those set forth in this subsection.

(b) To the extent any amounts of the aggregate state ceiling allocated pursuant to subsection (a) of this section are not used prior to September 1 in any year, these amounts shall be allocated pursuant to subsection (c) of this section.

(c) The remaining thirty percent (30%) of the aggregate state ceiling plus any amounts not used by September 1 in each year pursuant to subsection (b) of this section is allocated to all other affected bonds issued by all issuers of such affected bonds within the state, regardless of whether such issuers are at the state level or at the local level, pursuant to rules established by the authority promulgated in compliance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., in the amounts set forth in filings made by or on behalf of issuers.

History. Acts 1987, No. 900, § 8; 2001, No. 1044, § 2; 2017, No. 824, § 14; 2019, No. 315, § 1079.

Amendments. The 2017 amendment added (a)(1)(D); in (a)(2), substituted “the authority” for “Arkansas Development Finance Authority” and “seventy percent (70%)” for “sixty percent (60%)”; deleted (a)(3); and made stylistic changes.

The 2019 amendment deleted “and regulations” following “rules” in (c).

15-5-604. Filing by issuer of reservation of volume cap and notice of issuance of bonds.

(a) In order to reserve an allocation of the state ceiling to an issue of affected bonds prior to the issuance by delivery and payment of those affected bonds, a reservation filing by or on behalf of the issuer must be made with the President of the Arkansas Development Finance Authority not more than sixty (60) days prior to the projected issuance date of the affected bonds. Each reservation filing shall be assigned a priority number in accordance with § 15-5-607.

(b)(1) Once accepted as a reservation of volume cap by the president pursuant to the rules of the authority, a reservation filing shall be effective to allocate state volume cap for purposes of compliance with federal tax law, subject only to the timely issuance of the affected bonds.

(2) The affected bonds shall be issued by delivery and payment within sixty (60) days after the date that the reservation filing is accepted as effective to allocate volume cap, unless:

(A) The deadline is extended pursuant to subsection (e) of this section;

(B) The reservation is accepted as effective to allocate volume cap on or after November 1, by December 31 of the applicable calendar year; or

(C) The issuer is granted permission by the president to carry forward the allocation pursuant to § 15-5-606.

(c) The issuance of the affected bonds shall be evidenced by the filing of a notice of issuance with the president. However, the failure to file such notice of issuance shall not affect the allocation of volume cap to affected bonds that have been otherwise timely issued pursuant to subsection (b) of this section.

(d)(1) For reservation filings received by the president prior to September 1 of each calendar year, volume cap shall be reserved and allocated based on the priority number assigned in accordance with subsection (a) of this section.

(2) For reservation filings made on or after September 1 of each calendar year, or for reservation filings made once a volume cap shortage has been declared in accordance with the rules of the authority, volume cap shall be reserved and allocated in accordance with the rules of the authority.

(3) The authority shall promulgate rules to provide for the declaring of a volume cap shortage and to reserve and allocate volume cap in cases of a shortage declaration in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e)(1) In the event that an allocation expires by reason of failure to issue the affected bonds within the applicable period stated in subsection (b) of this section, a new filing shall be made that shall be accorded priority in accordance with its new time of filing.

(2)(A) The president may extend the applicable period for issuing the affected bonds by up to sixty (60) days in accordance with the rules promulgated by the authority.

(B) The rules may provide for the payment by the issuer of a fee to extend the issuance period and may provide for the filing of an explanatory statement as to the reasons the affected bonds were not issued during the original applicable period.

(C) The authority shall promulgate rules to provide for extending the applicable period for issuing the affected bonds in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1987, No. 900, § 8; 2001, No. 1044, § 3; 2007, No. 141, § 1; 2019, No. 315, §§ 1080-1082.

Amendments. The 2019 amendment deleted “and regulations” following “rules” throughout the section.

15-5-605. Special rules for allocation of volume cap for multifamily residential housing bonds.

(a) Notwithstanding § 15-5-604(c), the priority allocation of volume cap to multifamily residential housing bonds, whether the bonds are issued by the Arkansas Development Finance Authority or by any other issuer, shall not be determined based solely on the date of the reservation filing.

(b) Multifamily residential housing bonds shall be granted a priority based upon the decision of the authority in accordance with rules establishing criteria to determine priority for multifamily residential housing bonds.

(c) The rules may provide for the priority of the allocation to be based upon:

(1) The need for multifamily residential housing in the particular area of the state in which the project is to be located;

(2) The characteristics of the proposed project; and

(3) Any other factors as determined necessary by the authority.

(d) The authority shall promulgate rules to establish criteria to determine priority for multifamily residential housing bonds in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1987, No. 900, § 8; 2001, No. 1044, § 4; 2019, No. 315, § 1083.

deleted “and regulations” following “rules” in (b), the introductory language of (c), and (d).

Amendments. The 2019 amendment

SUBCHAPTER 7 — ARKANSAS DEVELOPMENT FINANCE AUTHORITY SMALL BUSINESS ACT OF 1989

SECTION.

15-5-703. Definitions.

15-5-706. Evaluation of small-business persons.

15-5-708. Applications — Supporting documents.

SECTION.

15-5-712. Power to make grants and loans.

15-5-714. Entrepreneur Fee Waiver Pilot Program — Definition.

RESEARCH REFERENCES

ALR. Small Business Owned and Controlled by Socially or Economically Disadvantaged Person Under Small Business Act § 8(a) (15 U.S.C. § 637), 33 A.L.R. Fed. 3d Art. 1 (2018).

15-5-703. Definitions.

As used in this subchapter:

(1) "Agencies of the United States Government" means federal agencies empowered to make direct loans and provide guaranties backed by the United States Government;

(2) "Amortization payments" means periodic, i.e., monthly, semianual, annual, etc., payment of interest on and installments of principal of loans guaranteed by the Small Business Revolving Loan Fund;

(3) "Arkansas Development Finance Authority guaranty" means:

(A) A special obligation of the Small Business Revolving Loan Fund; or

(B) A special obligation of the Bond Guaranty Reserve Account as defined in § 15-5-403;

(4) "Arkansas Development Finance Authority guaranty premium payment" means a premium payment or payments made to the Bond Guaranty Reserve Account by borrowers receiving guaranties;

(5) "Arkansas Development Finance Authority loans" means direct loans from the Small Business Revolving Loan Fund or from direct loans made by the authority in accordance with provisions of the Arkansas Development Finance Authority Act, §§ 15-5-101 — 15-5-106, 15-5-201 — 15-5-211, 15-5-213, and 15-5-301 — 15-5-316;

(6) "Authority" means the Arkansas Development Finance Authority;

(7) "Board" means the Board of Directors of the Arkansas Development Finance Authority;

(8) "Direct Fund" means a cash fund used for qualified investments to invest exclusively in Arkansas small businesses, preferably as a co-investor with other professional venture investors or accredited investors as defined in § 15-5-1403, consisting of the total dollar amount of cash funds of the authority from any combination of:

(A) The Venture Capital Investment Trust as defined in § 15-5-1403 that is dedicated and made available by the board; and

(B) An authorized source under § 15-5-711;

(9) "Local financial institutions" means state and local agencies, banks, Arkansas savings and loans, Arkansas development finance corporations, and Arkansas certified development corporations;

(10) "Project" means the project for which proceeds of authority loans are utilized;

(11) "Qualified investment" means any form of investment by the Venture Capital Investment Trust as defined in § 15-5-1403 in the capital structure of a small business:

(A) Through the Direct Fund; or

(B) By investing in or cooperating with other investment entities, including without limitation an accredited investor as defined in § 15-5-1403;

(12) [Repealed.]

(13)(A) “Small business” means business enterprises with fewer than five hundred (500) employees and less than eighty million dollars (\$80,000,000) in gross sales or receipts.

(B) This definition is subject to change by standards and rules promulgated by the authority;

(14) “Small business investment company” means an entity which is qualified as such under the provisions of § 301 of the Small Business Investment Act of 1958, 15 U.S.C. § 681, and the regulations promulgated thereunder;

(15) “Small Business Loan Committee” means a committee comprised of authority staff members or board members, or both, appointed by the Chair of the Board of Directors of the Arkansas Development Finance Authority and approved by a majority vote of the board. The committee is to comply with standards and requirements set by the board in carrying out its function;

(16) “Small-business person” means:

(A) An individual, firm, or corporation, whether for profit or nonprofit, charged with developing the project; or

(B) An individual, firm, partnership, limited liability company, corporation, or any other business entity in any form that owns and operates a small business;

(17) “Small Business Revolving Loan Fund” means the fund created under this subchapter for the purpose of making direct loans and meeting amortization payments of loans guaranteed by the Small Business Revolving Loan Fund;

(18) “Specialized small business investment company” means an entity that is qualified as such under the provisions of § 301(d) of the Small Business Investment Act of 1958, 15 U.S.C. § 681(d) [repealed], and the regulations promulgated thereunder;

(19) “State” means the State of Arkansas; and

(20) “Title IX revolving loan funds” means revolving loan funds operated by regional planning and development districts and authorized by Title IX of the Public Works and Economic Development Act of 1965, Pub. L. No. 89-136 [repealed].

History. Acts 1989, No. 623, § 3; 1991, No. 775, § 2; 1991, No. 874, § 2; 1993, No. 183, § 2; 1995, No. 1329, § 3; 2001, No. 1791, § 12; 2015, No. 1060, §§ 10, 11; 2017, No. 374, § 19; 2019, No. 315, § 1084; 2019, No. 925, §§ 2, 3.

Amendments. The 2017 amendment repealed (12).

The 2019 amendment by No. 315 substituted “rules” for “regulations” in (13)(B).

The 2019 amendment by No. 925 substituted “§ 15-5-1403” for “§ 15-5-1603” in the introductory language of (8) and (11) and in (8)(A) and (11)(B).

15-5-706. Evaluation of small-business persons.

(a) The Arkansas Development Finance Authority shall promulgate standards and rules for the evaluation of the financial condition and business history of the small-business person and may require the attachment to each application for a loan or guaranty or qualified investment under this subchapter of a financial report and evaluation by an independent certified public accountant firm in addition to such examination and evaluation as the authority may make in determining whether the small-business person meets prescribed minimum standards and qualifications before entering into any guaranty under this subchapter.

(b) The authority may also promulgate rules for the handling of disbursements from and payments to the Small Business Revolving Loan Fund and the Direct Fund and for the management and implementation of programs provided in this subchapter, specifically including the establishment of amounts to be made available for small businesses in rural areas.

History. Acts 1989, No. 623, § 5; 1991, No. 775, § 4; 1991, No. 874, § 4; 1995, No. 1329, § 5; 2015, No. 1060, § 12; 2019, No. 315, § 1085.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a).

15-5-708. Applications — Supporting documents.

Each small-business person requesting a loan or guaranty or qualified investment under this subchapter shall submit to the Arkansas Development Finance Authority an application, supporting documents, and instruments as may be required by the rules promulgated by the authority pursuant to this subchapter and approved by a majority vote of the Board of Directors of the Arkansas Development Finance Authority.

History. Acts 1989, No. 623, § 7; 1993, No. 183, § 4; 1995, No. 1329, § 6; 2019, No. 315, § 1086.

Amendments. The 2019 amendment deleted “and regulations” following “rules”.

15-5-712. Power to make grants and loans.

The Arkansas Development Finance Authority may make grants, direct loans, or loan guaranties to:

(1) New or existing:

(A) Title IX revolving loan funds;

(B) Small business investment companies; and

(C) Specialized small business investment companies;

(2) The Division of Minority and Women-owned Business Enterprise of the Arkansas Economic Development Commission;

(3) A certified community development financial institution under the Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. No. 103-325; and

(4) An entrepreneur as described in the Entrepreneur Fee Waiver Pilot Program under § 15-5-714.

History. Acts 1991, No. 775, § 6; 1991, No. 874, § 6; 2015, No. 1060, § 14; 2017, No. 857, § 1.

Amendments. The 2017 amendment added (4).

U.S. Code. The Riegle Community Development and Regulatory Improvement Act of 1994, referred to in this section, is codified as 12 U.S.C. § 4701 et seq. and throughout the U.S. Code.

15-5-714. Entrepreneur Fee Waiver Pilot Program — Definition.

- (a) There is created a program to be known as the “Entrepreneur Fee Waiver Pilot Program”.
- (b) The program shall be developed, implemented, and administered by the Arkansas Development Finance Authority.
- (c) The purpose of the program is to encourage and assist entrepreneurs by providing a waiver of state filing fees, state permit fees, or state licensing fees associated with the formation of a small business in this state.
- (d) As used in this section, “entrepreneur” means an individual starting a small business and who meets the eligibility criteria established by the authority for the program.
- (e) The authority shall promulgate rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to establish criteria for the review and approval of applications for the program.
- (f) A entrepreneur shall apply to the authority, using the form prescribed by the authority, before the formation of the small business for which the entrepreneur seeks waiver of the state filing fees, state permit fees, or state licensing fees.
- (g) Any waivers or vouchers under this section shall be provided in the manner determined by the authority.
- (h) The total amount waived by the authority under this section shall not exceed five hundred thousand dollars (\$500,000) per fiscal year.
- (i) The Secretary of State shall provide notice of the program to an entrepreneur filing for the formation of a small business in this state.

History. Acts 2017, No. 857, § 2.

SUBCHAPTER 9 — CONSTRUCTION ASSISTANCE REVOLVING LOANS

SECTION.	SECTION.
15-5-901. Fund — Establishment — Uses	15-5-902. Fund — Administration.
— Accounts.	15-5-909. Definitions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-5-901. Fund — Establishment — Uses — Accounts.

(a)(1)(A) There is established on the books of the Arkansas Natural Resources Commission a special restricted fund to be known as the "Construction Assistance Revolving Loan Fund".

(B) The Construction Assistance Revolving Loan Fund shall be maintained in perpetuity and administered by the commission for the purposes stated in this subchapter.

(2) Grants from the United States Government or its agencies allotted to the state for capitalization of the Construction Assistance Revolving Loan Fund, state matching grants when required, proceeds of bonds issued by the commission or the Arkansas Development Finance Authority for capitalization of the Construction Assistance Revolving Loan Fund, principal, interest, and premiums on loans provided, and bonds, notes, and other evidences of indebtedness purchased with moneys in the Construction Assistance Revolving Loan Fund shall be deposited into the Construction Assistance Revolving Loan Fund.

(3) The commission may deposit loans made to and bonds, notes, and other evidences of indebtedness issued by local governmental entities and other owners of environmental projects to finance or refinance the planning, design, acquisition, construction, expansion, equipping, rehabilitation, or consolidation of wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects into the Construction Assistance Revolving Loan Fund.

(b) Moneys in the Construction Assistance Revolving Loan Fund shall be expended in a manner consistent with the terms and conditions of applicable federal and state capitalization grants and may be used:

(1) To provide loans for the planning, design, acquisition, construction, expansion, equipping, rehabilitation, consolidation, or refinancing of wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects;

(2) Subject to the provisions of subsection (c) of this section and subject to the approval of the commission, to secure the payment of the principal of and premium, if any, and interest on and to pay costs incurred in connection with bonds issued by the commission or the authority, if proceeds of the bonds are deposited into the Construction Assistance Revolving Loan Fund Account;

(3) To purchase bonds, notes, or other evidences of indebtedness issued by local governmental entities to finance or refinance the planning, design, acquisition, construction, expansion, equipping, rehabilitation, or consolidation of wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects;

(4) To fund other wastewater system programs, water system programs, solid and hazardous waste facilities programs, recycling programs, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental programs that the federal or state government may allow in the future;

(5) To fund the administrative expenses of the commission relating to the responsibilities and requirements of this subchapter and the federal environmental acts as defined in § 15-5-909;

(6) To provide for any other expenditures consistent with applicable federal and state law;

(7) To provide loans to prospective and actual purchasers of abandoned industrial, commercial, or agricultural sites for assessments, investigations, and remedial actions pursuant to § 8-7-1101;

(8) To pay the principal of and premium, if any, and interest on and to pay costs incurred in connection with bonds issued by the commission or the authority, if proceeds of the bonds are deposited into the Construction Assistance Revolving Loan Fund Account;

(9) To make grants or loans to the Safe Drinking Water Fund established by § 15-22-1102 in amounts approved by the commission, consistent with applicable federal law;

(10) Subject to the provisions of subsection (c) of this section and subject to the approval of the commission, to secure the payment of the principal of and premium, if any, and interest on bonds issued by the commission or the authority, if proceeds of the bonds are deposited into the Drinking Water State Revolving Loan Fund Account established by § 15-22-1102, consistent with applicable federal law;

(11) Subject to subsection (c) of this section and the approval of the commission, to pay the principal of and premium, if any, and interest on and to pay costs incurred in connection with bonds issued by the commission or the authority, if proceeds of the bonds are deposited into the Drinking Water State Revolving Loan Fund Account established by § 15-22-1102, consistent with applicable federal law; or

(12)(A) To make grants for the planning, design, acquisition, construction, expansion, equipping, rehabilitation, or consolidation of wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects.

(B) However, grants shall be made only from moneys in the Construction Assistance Revolving Loan Fund provided by the

United States Government under the Clean Water Act to provide additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans, or grants or any combination of forgiveness of principal, negative interest loans, or grants.

(c)(1) There is established a separate account within the Construction Assistance Revolving Loan Fund, designated the "State Grants Account", into which moneys appropriated by the state for deposit into the Construction Assistance Revolving Loan Fund shall be deposited.

(2)(A) Moneys in the State Grants Account may be expended for the same purposes as other moneys in the Construction Assistance Revolving Loan Fund.

(B) However, moneys in the State Grants Account shall never be pledged to the payment of or as security for any bonds issued by the commission or the authority.

(d)(1) There is established a separate account within the Construction Assistance Revolving Loan Fund, designated the "Remedial Action Account", into which moneys identified in § 8-7-504(c) and any other moneys as designated by the Director of the Division of Environmental Quality shall be deposited.

(2) Moneys in the Remedial Action Account may be expended as authorized in § 8-7-1101 and for the same purposes as other moneys in the Construction Assistance Revolving Loan Fund.

(e)(1) There is established a separate account within the Construction Assistance Revolving Loan Fund, designated the "Construction Assistance Administrative Account", into which shall be deposited:

(A) Moneys provided by the United States Government under the federal environmental acts for the purpose of administering programs funded by the federal environmental acts; and

(B) Fees under § 15-5-904.

(2) Moneys in the Construction Assistance Administrative Account may be expended by the commission for administrative costs of programs funded by the federal environmental acts.

(3) Moneys in the Construction Assistance Administrative Account shall never be pledged to the payment of or as security for any bonds issued by the authority or the commission.

(f)(1) There is established a separate account within the Construction Assistance Revolving Loan Fund, designated the "Construction Assistance Revolving Loan Fund Account", into which shall be deposited moneys provided by:

(A) The United States Government under the federal environmental acts;

(B) Proceeds of bonds issued by the commission or the authority; and

(C) Other amounts, excluding state appropriations, received under § 15-5-903 for the purpose of providing financial assistance to local governmental entities and other owners of environmental projects in connection with the planning, design, acquisition, construction, expansion, equipping, or rehabilitation of wastewater systems, water

systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects or parts of environmental projects.

(2) Moneys in the Construction Assistance Revolving Loan Fund Account may also be expended for the purposes set forth in subdivisions (b)(1)-(5) and (b)(7)-(12) of this section.

(g) The commission may establish and maintain additional accounts within the Construction Assistance Revolving Loan Fund or subaccounts within the accounts established by this section.

(h) The commission shall maintain the Construction Assistance Revolving Loan Fund at the authority or at one (1) or more financial institutions within or without the state.

History. Acts 1991, No. 718, § 1; 1993, No. 833, § 1; 1997, No. 1042, §§ 6, 7; 1999, No. 1164, § 130; 2003, No. 548, § 2; 2009, No. 458, § 1; 2019, No. 910, § 3043.

Amendments. The 2019 amendment substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality" in (d)(1).

15-5-902. Fund — Administration.

(a)(1) The Construction Assistance Revolving Loan Fund shall be administered by the Arkansas Natural Resources Commission.

(2) The commission may establish procedures and adopt rules required to administer the fund and programs financed, in whole or in part, with moneys in the fund in accordance with federal or state law providing for:

(A) Wastewater systems, water systems, solid and hazardous waste facilities, recycling facilities, nonpoint source management facilities, wetlands conservation and management facilities, and other environmental projects; and

(B) Assessments, investigations, and remedial actions with respect to abandoned industrial, commercial, or agricultural sites, including without limitation the federal environmental acts.

(b) The commission may enter into contracts and other agreements in connection with the operation of the fund, including without limitation contracts and agreements with federal agencies, local governmental entities, the Arkansas Development Finance Authority, the Division of Environmental Quality, and other persons to the extent necessary or convenient for the implementation of the fund and programs financed, in whole or in part, with moneys in the fund.

(c) The commission shall maintain full authority for the operation of the fund in accordance with applicable federal and state law, including withdrawals necessary to achieve the intended purposes of the fund.

(d) To the extent that moneys provided by the United States Government under the federal environmental acts and nonappropriated state matches do not designate the account into which the moneys shall be deposited, the moneys shall be deposited into the accounts within the fund designated by the commission.

(e) The commission shall execute capitalization grant agreements on behalf of the state in order to obtain funds under the Clean Water Act.

History. Acts 1991, No. 718, § 1; 1993, No. 833, § 2; 1997, No. 1042, § 8; 2003, No. 548, § 2; 2009, No. 458, § 1; 2019, No. 910, § 3044.

Amendments. The 2019 amendment substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality" in (b).

15-5-909. Definitions.

As used in this subchapter:

(1) "Administrative account" means the Construction Assistance Administrative Account established by this subchapter within the Construction Assistance Revolving Loan Fund;

(2) "Authority" means the Arkansas Development Finance Authority or any successor agency or commission of the state;

(3) "Clean Water Act" means the Federal Water Pollution Control Act of 1972, as amended by the federal Water Quality Act of 1987;

(4) "Commission" means the Arkansas Natural Resources Commission or a successor agency or commission of the state;

(5) [Repealed.]

(6) "Federal environmental acts" means the Clean Water Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act, the Clean Air Act, and the Comprehensive Environmental Response, Compensation, and Liability Act;

(7) "Fund" means the Construction Assistance Revolving Loan Fund established by this subchapter;

(8) "Owner" means the owner or prospective owner of an environmental project, excluding any federal agencies;

(9) "Revolving loan account" means the Construction Assistance Revolving Loan Fund Account established by this subchapter within the fund;

(10) "State" means the State of Arkansas; and

(11) "State Grants Account" means the State Grants Account established by this subchapter within the fund.

History. Acts 2003, No. 548, § 3; 2009, No. 458, § 9; 2019, No. 910, § 3045.

Amendments. The 2019 amendment repealed (5).

SUBCHAPTER 11 — ARKANSAS CAPITAL ACCESS PROGRAM FOR SMALL BUSINESS ACT OF 1993

SECTION.

15-5-1103. Definitions.

15-5-1103. Definitions.

As used in this subchapter:

(1) "Financial institution" means all banks, savings and loan associations, corporations organized under the County and Regional Industrial Development Company Act, § 15-4-1201 et seq., and any other

lending institutions approved by the Board of Directors of the Arkansas Development Finance Authority;

(2) “Loss reserve account” means an account in a financial institution that is established and maintained by the Arkansas Development Finance Authority for the benefit of a financial institution participating in the Arkansas Capital Access Program for Small Business or the Arkansas Credit Reserve Program;

(3) “Qualified business” means a person conducting business for profit or not-for-profit who is authorized to conduct business in the State of Arkansas; and

(4) “Qualified loan” means a loan or portion of a loan made by a financial institution to a qualified business for any business activity that has its primary economic effect in Arkansas.

History. Acts 1993, No. 733, § 3; 1993, No. 886, § 3; 1995, No. 487, § 1; 1999, No. 429, § 8; 2013, No. 1222, § 1; 2017, No. 426, § 6.

Amendments. The 2017 amendment deleted “either the Arkansas Development Finance Corporation Act, § 15-4-901 et seq., or” following “under” in (1).

SUBCHAPTER 12 — PETROLEUM STORAGE TANK TRUST FUND BOND
FINANCING ACT

- SECTION.
- 15-5-1203. Definitions.
- 15-5-1204. Issuance of revenue bonds by the authority.
- 15-5-1205. Petroleum Storage Tank Trust Fund Revenue Bond Debt Service Fund — Pledged fees.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-5-1203. Definitions.

As used in this subchapter:

(1) “Act” means the Arkansas Development Finance Authority Act, § 15-5-101 et seq.;

(2) "Authority" means the Arkansas Development Finance Authority;

(3) "Bonds" means the Arkansas Development Finance Authority Petroleum Storage Tank Trust Fund revenue bonds or other obligations authorized to be issued or incurred by the authority pursuant to this subchapter and the Arkansas Development Finance Authority Act, §§ 15-5-101 et seq., 15-5-201 et seq., and 15-5-301 et seq.;

(4) "Debt service fund" means the Petroleum Storage Tank Trust Fund Revenue Bond Debt Service Fund and any subaccount of the Petroleum Storage Tank Trust Fund Revenue Bond Debt Service Fund to be established on the books of the authority for the purpose of paying the principal of and interest on the bonds as they come due;

(5) [Repealed.]

(6) "Pledged fees" means the fees collected by the Secretary of the Department of Finance and Administration pursuant to § 8-7-906;

(7) "Reserve fund" means the Petroleum Storage Tank Trust Fund Revenue Bonds Reserve Fund and any subaccount of the Petroleum Storage Tank Trust Fund Revenue Bonds Reserve Fund established on the books of the authority pursuant to this subchapter as a reserve for the payment of the principal or any interest on the bonds;

(8) "Trust fund" means the Petroleum Storage Tank Trust Fund established in the State Treasury pursuant to § 8-7-905; and

(9) "Trust fund act" means the Petroleum Storage Tank Trust Fund Act, § 8-7-901 et seq.

History. Acts 1995, No. 1054, § 1; repealed (5); and substituted "Secretary of the Department of Finance and Administration" for "director" in (6).

Amendments. The 2019 amendment

repealed (5); and substituted "Secretary of the Department of Finance and Administration" for "director" in (6).

15-5-1204. Issuance of revenue bonds by the authority.

(a)(1) Upon the request of the Director of the Division of Environmental Quality and based upon an estimate by the Department of Finance and Administration of the pledged fees to be collected, the Arkansas Development Finance Authority may issue bonds for the purpose of:

(A) Providing money for the Petroleum Storage Tank Trust Fund; and

(B) Paying the cost of issuing the bonds and establishing the Petroleum Storage Tank Trust Fund Revenue Bonds Reserve Fund, if necessary.

(2) The money in the Petroleum Storage Tank Trust Fund shall be used as provided in the Petroleum Storage Tank Trust Fund Act, § 8-7-901 et seq.

(b)(1) The bonds are special obligations payable only from:

(A) The pledged fees collected by the Secretary of the Department of Finance and Administration pursuant to § 8-7-906;

(B) The amounts on deposit in the Petroleum Storage Tank Trust Fund Revenue Bond Debt Service Fund and the Petroleum Storage Tank Trust Fund Revenue Bonds Reserve Fund, if any; and

(C) The investment income on the amounts in the Petroleum Storage Tank Trust Fund, the Petroleum Storage Tank Trust Fund Revenue Bond Debt Service Fund, and the Petroleum Storage Tank Trust Fund Revenue Bonds Reserve Fund.

(2) The bonds do not constitute an indebtedness of the state as prohibited by the Arkansas Constitution.

(c)(1)(A) Bonds issued under this subchapter shall be authorized by resolution of the Board of Directors of the Arkansas Development Finance Authority and shall have the form and characteristics and bear the designations as are provided in the resolution and permitted under the Arkansas Development Finance Authority Act, §§ 15-5-101 — 15-5-106, 15-5-201 — 15-5-211, 15-5-213, and 15-5-301 — 15-5-316.

(B) The resolution may include such provisions and covenants as the board determines necessary.

(2) The board may approve and have executed any other proceedings, agreements, trust agreements, or other instruments necessary and convenient to the issuance of the bonds.

History. Acts 1995, No. 1054, § 1; substituted “Division of Environmental 1999, No. 1164, § 131; 2019, No. 910, Quality” for “Arkansas Department of Environmental Quality” in (a)(1). § 3046.

Amendments. The 2019 amendment

15-5-1205. Petroleum Storage Tank Trust Fund Revenue Bond Debt Service Fund — Pledged fees.

(a)(1) The debt service on the bonds shall be secured by a lien on and pledge of the petroleum environmental assurance fee established by § 8-7-906.

(2) The pledging of such fees is authorized.

(b) Commencing on the first day of the month next succeeding the issuance of bonds by the Arkansas Development Finance Authority, the pledged fees are specifically declared to be cash funds restricted in their use and dedicated and to be used solely as provided and authorized in this subchapter, the Arkansas Development Finance Authority Act, §§ 15-5-101 — 15-5-106, 15-5-201 — 15-5-211, 15-5-213, and 15-5-301 — 15-5-316, and the Petroleum Storage Tank Trust Fund Act, § 8-7-901 et seq.

(c)(1) Commencing on the first day of the month next succeeding the issuance of bonds by the authority, the pledged fees shall not be deposited into the State Treasury and shall not be subject to legislative appropriations, but, as received by the Secretary of the Department of Finance and Administration or the Treasurer of State, shall be deposited into a bank or banks selected by the authority and approved by the Treasurer of State.

(2) The pledged fees shall be deposited to the credit of a fund established on the books of the authority created and designated as the “Petroleum Storage Tank Trust Fund Revenue Bond Debt Service Fund”.

(d)(1) There is established on the books of the authority a reserve fund to be known as the “Petroleum Storage Tank Trust Fund Revenue Bonds Reserve Fund”.

(2) The Petroleum Storage Tank Trust Fund Revenue Bonds Reserve Fund shall be funded from the proceeds of the bonds and shall be held and used to ensure prompt payment of debt service on the bonds in such a manner and pursuant to such conditions as may be specified by the authority in the resolution or trust indenture authorizing or securing the bonds.

History. Acts 1995, No. 1054, § 1; substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration” in (c)(1).
2005, No. 1962, § 63; 2019, No. 910, § 3401.

Amendments. The 2019 amendment

SUBCHAPTER 13 — AFFORDABLE NEIGHBORHOOD HOUSING TAX CREDIT ACT OF 1997

SECTION.

15-5-1302. Definitions.
15-5-1303. Affordable housing assistance activities and affordable housing units — Business

SECTION.

firms proposing to provide
— Procedure for approval and tax credit.
15-5-1305. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-5-1302. Definitions.

As used in this subchapter:

(1) “Affordable housing assistance activities” means money, real, or personal property expended or devoted to the construction or rehabilitation of affordable housing units developed by or in conjunction with any governmental unit or not-for-profit corporation, such costs to

include related site and infrastructure costs and community and supportive services;

(2) "Affordable housing unit" means:

(A) For purposes of rental units, a housing unit or units which have restricted rents that do not exceed thirty percent (30%) of median income for the metropolitan area or county in which the project is located for:

(i) At least forty percent (40%) of its units, which must be occupied by persons or families having incomes of sixty percent (60%) or less of the median income for the metropolitan area or county in which the project is located; or

(ii) For at least twenty percent (20%) of its units, which must be occupied by persons or families having incomes of fifty percent (50%) or less of the median income for the metropolitan area or county in which the project is located;

(B) In the case of owner-occupied units, a housing unit which is sold to a purchaser:

(i) Whose family income does not exceed one hundred fifteen percent (115%) of the median income, adjusted for family size, of the county of standard metropolitan statistical area at the time of the initial purchase contract;

(ii) Who has not owned a home for three (3) years prior to initial occupancy; and

(iii) Who will occupy the housing unit as the family's principal residence;

(C) In the case of rental units, the cost to the occupant shall be considered the amount of the gross rent; and

(D) For purposes of owner-occupied units, the Arkansas Development Finance Authority shall establish the requirements for an affordable housing unit to be consistent with guidelines established under the federal HOME Investment Partnerships Program;

(3) "Authority" means the Arkansas Development Finance Authority or its successor agency;

(4) "Business firm" means:

(A) A person;

(B) A general or limited partnership;

(C) A partner in such partnership;

(D) A corporation;

(E) A limited liability company or a member thereof;

(F) A shareholder in an S corporation subject to the state income tax imposed by the provisions of §§ 26-51-101 — 26-51-1510;

(G) An insurance company paying an annual tax on its gross premium receipts in this state; or

(H) A financial institution paying income taxes to the State of Arkansas;

(5) [Repealed.]

(6) "Governmental unit" means:

(A) The State of Arkansas;

(B) Any county, municipality, or other political subdivision of the State of Arkansas; and

(C) Any agency, board, commission, or instrumentality of any of the foregoing;

(7) "Neighborhood organization" means any organization performing community services or economic development activities in the State of Arkansas and:

(A) Holding a ruling from the Internal Revenue Service that the organization is exempt from income taxation under the provisions of the Internal Revenue Code, 26 U.S.C. § 1 et seq.;

(B) Incorporated in the State of Arkansas as a not-for-profit corporation; or

(C) Designated as a community development corporation by the United States Government under the provisions of Title VII of the Economic Opportunity Act of 1964, 42 U.S.C. § 2701 et seq. [repealed]; and

(8) "S corporation" means a corporation described in 26 U.S.C. § 1361(a)(1).

History. Acts 1997, No. 1331, § 2; **Amendments.** The 2019 amendment 2019, No. 910, § 3402. repealed (5).

15-5-1303. Affordable housing assistance activities and affordable housing units — Business firms proposing to provide — Procedure for approval and tax credit.

(a) Any business firm which engages in providing affordable housing assistance activities in the State of Arkansas shall receive a tax credit as provided in § 15-5-1304 if the Arkansas Development Finance Authority or its delegate approves a proposal submitted by one (1) or more business firms for the provision of affordable housing units.

(b) The proposal shall set forth:

(1) A program of affordable housing to be conducted;

(2) The location and number of affordable housing units;

(3) The neighborhood area to be served;

(4) Why the program is needed;

(5) The time period for which affordable housing units shall be provided;

(6) The estimated amount to be invested in the program;

(7) Plans for implementing the program; and

(8) A list of the business firms proposing to provide affordable housing assistance activities which are a part of the proposal.

(c) In the case of rental affordable housing units, all proposals approved by the authority shall require a land-use restriction agreement stating the provision of affordable housing on the property for a time period deemed reasonable by the authority.

(d)(1) In the case of owner-occupied affordable housing units, all proposals approved by the authority shall require a land-use restriction agreement for a time period deemed reasonable by the authority

requiring any subsequent owner, except a lender with a security interest in the property, to be an owner-occupant whose income at the time of acquisition is at or below the level described in § 15-5-1302 and further requiring that the acquisition price to any subsequent owner shall not exceed by more than a five percent (5%) annual appreciation the acquisition price to the original, eligible owner at the time tax credits are first claimed.

(2) The restriction shall be approved by the property owner and shall be binding on any subsequent owner of the property unless otherwise approved by the authority.

(e) In approving a proposal, the authority may authorize the use of tax credits by one (1) or more of the business firms listed in the proposal and shall establish specific requirements regarding the degree of completion of affordable housing assistance activities necessary to be eligible for tax credits provided under this section.

(f) If, in the opinion of the authority or its delegate, a business firm's investment can be made more consistently with the purposes of this section through contributions to a neighborhood organization, tax credits may be allowed as provided in this section.

(g) The authority or its delegate is authorized to promulgate rules for:

(1) Establishing criteria for evaluating such proposals by business firms for approval or disapproval;

(2) Establishing housing priorities for approval or disapproval of such proposals by business firms; and

(3) The certification of eligibility for tax credits authorized under this section.

(h) The decision of the authority or its delegate to approve or disapprove a proposal pursuant to this section shall be in writing, and if approved, the maximum credit allowable to the business firm shall be stated.

(i) A copy of the decision of the authority or its delegate shall be transmitted to the Secretary of the Department of Finance and Administration and to the Governor.

(j) A copy of the certification approved by the authority and a statement of the total amount of credits approved by the authority, the amount of credits previously taken by the taxpayer, and the amount being claimed for the current tax year shall be filed in a manner and form designated by the secretary for any tax year in which a tax credit is being claimed.

History. Acts 1997, No. 1331, § 3; 2019, No. 315, § 1087; 2019, No. 910, § 3403.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in the introductory language of (g).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (i); and substituted "secretary" for "director" in (j).

15-5-1305. Rules.

The Secretary of the Department of Finance and Administration and the Arkansas Development Finance Authority shall promulgate rules necessary to administer the provisions of this subchapter. No rule or portion of a rule promulgated under the authority of this subchapter shall become effective until it has been approved by the secretary in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1997, No. 1331, § 5; 2019, No. 315, § 1088; 2019, No. 910, § 3404.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in the section heading and in the first sentence.

The 2019 amendment by No. 910 substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration” in the first sentence and “secretary” for “director” in the second sentence.

SUBCHAPTER 14 — VENTURE CAPITAL INVESTMENT ACT OF 2001**SECTION.**

- 15-5-1403. Definitions.
- 15-5-1409. Powers of the Arkansas Development Finance Authority.
- 15-5-1410. Legislative findings.
- 15-5-1411. Creation of the Arkansas Venture Capital Development Fund.
- 15-5-1412. Eligibility for financial assistance — Limitation.

SECTION.

- 15-5-1413. Funding of Arkansas Venture Capital Development Fund.
- 15-5-1414. Review committee.
- 15-5-1415. Annual report.
- 15-5-1416. Powers of the trustees of the Venture Capital Investment Trust.

15-5-1403. Definitions.

As used in this subchapter:

- (1) “Accredited investor” means an accredited investor as defined in 17 C.F.R. § 230.215, as it existed on January 1, 2013;
- (2) “Authority” means the Arkansas Development Finance Authority;
- (3) “Bond guaranty” means a special obligation of the Bond Guaranty Reserve Account as defined in § 15-5-403;
- (4) “Capital guaranty” means the guaranty provided by the authority under § 15-5-1405;
- (5) “Certificate” means a document executed by the authority extending a capital guaranty to the designated investor group;
- (6) “Designated investor group” means the investor group selected by the authority under this subchapter;
- (7) “Equity capital” means capital invested in common stock or preferred stock, royalty rights, limited partnership interests, limited liability company interests, and any other equity, securities, or rights that evidence ownership or investment in private enterprises;
- (8) “Investor group” means any individual, corporation, partnership, limited liability company, or other lawfully organized entity;

(9) “Near-equity capital” means capital invested in unsecured, undersecured, subordinated, or convertible loans or debt securities;

(10) “Person” means any individual, corporation, partnership, or other lawfully organized entity;

(11) “Review committee” means a committee composed of the President of the Arkansas Development Finance Authority, the Director of the Arkansas Economic Development Commission, and the members of the Board of Directors of the Arkansas Development Finance Authority;

(12) “Revolving fund” means a bank account:

(A) Created by the designated investor group in a financial institution located in this state; and

(B) Used solely as provided in this subchapter;

(13) “Tax credit” means an income tax credit granted to the authority under this subchapter;

(14) “Technology-based enterprises” means a group of growing businesses in one (1) or more of the following business sectors:

(A) Advanced materials and manufacturing systems;

(B) Agriculture, food, and environmental sciences;

(C) Biotechnology, bioengineering, medical technology, and life sciences;

(D) Information technology;

(E) Transportation logistics; and

(F) Biobased products;

(15) “Venture capital funds” means private, for-profit investment funds that seek to invest in technology-based enterprises; and

(16) “Venture Capital Investment Trust” means the public trust formed July 21, 2003, under § 28-72-201 et seq., the trustees of which are the President of the Arkansas Development Finance Authority, the Director of the Arkansas Economic Development Commission, and the Secretary of the Department of Finance and Administration, and that has as a principal purpose increasing the availability of equity capital and near-equity capital for emerging and expanding enterprises in the State of Arkansas.

History. Acts 2001, No. 1791, § 3; 2019, No. 925, § 4.

Amendments. The 2019 amendment added the definitions for “Accredited investor”, “Review committee”, “Technology-based enterprises”, “Venture capital

funds”, and “Venture Capital Investment Trust”; and, in the definition for “Equity capital”, inserted “stock” following “common”, inserted “equity”, inserted “or investment”, and substituted “enterprises” for “businesses”.

15-5-1409. Powers of the Arkansas Development Finance Authority.

The Arkansas Development Finance Authority shall have the power to promulgate rules and make any contract, execute any document, perform any act, or enter into any financial or other transaction necessary to implement this subchapter.

History. Acts 2001, No. 1791, § 9; **Amendments.** The 2019 amendment substituted “rules” for “regulations”.

15-5-1410. Legislative findings.

The General Assembly finds:

(1) There is a need to strengthen and advance the infrastructure that supports and accelerates the advancement of the growth of technology-based enterprises in Arkansas;

(2) There exists a shortage of risk capital and financial assistance at the early stages of development for technology-based enterprises;

(3) An improved investment climate for early stage technology-based enterprises is expected to increase, advance, and accelerate the growth and development of technology-based enterprises in Arkansas;

(4) The ultimate goal of supporting technology-based enterprises is to convert research and development activities and early stage technology-based enterprises into viable commercial ventures; and

(5) The provision of financial investment and assistance to aid early stage technology-based enterprises is expected to strengthen the economic base of the State of Arkansas and create better paying jobs, thereby benefiting all residents of the state.

History. Acts 2019, No. 925, § 5.

15-5-1411. Creation of the Arkansas Venture Capital Development Fund.

(a) There is established the Arkansas Venture Capital Development Fund, and within that Arkansas Venture Capital Development Fund the Arkansas Venture Capital Development Fund Account, which Arkansas Venture Capital Development Fund and Arkansas Venture Capital Development Fund Account shall be held by and maintained as a separate fund and separate account within the Venture Capital Investment Trust.

(b)(1) The Arkansas Venture Capital Development Fund is a Direct Fund, as defined in § 15-5-703, created for the purpose of providing financial assistance to technology-based enterprises located in Arkansas with the expectation of:

(A) Developing jobs paying in excess of county and state average wages;

(B) Improving the growth, development, and advancement of technology-based enterprises; and

(C) Converting research and development activities and early stage technology-based enterprises into viable and productive commercial ventures.

(2) The Arkansas Venture Capital Development Fund shall target financial assistance toward:

(A) Technology-based enterprises that are in the early stages of development and that are not yet able to attract adequate private

sources of traditional financing or venture or investor-backed capital for their growth and development; and

(B) Venture capital funds that have a direct connection to Arkansas and are focused on providing equity capital or near-equity capital to technology-based enterprises.

History. Acts 2019, No. 925, § 5.

15-5-1412. Eligibility for financial assistance — Limitation.

(a) For a technology-based enterprise or venture capital fund to be eligible for financial assistance under this subchapter, the technology-based enterprise or venture capital fund shall:

(1) Demonstrate that at least one dollar (\$1.00) of financial assistance provided by the Arkansas Venture Capital Development Fund will result in at least one dollar (\$1.00) of new private financial assistance;

(2) Demonstrate a reasonable expectation that financial assistance from the Arkansas Venture Capital Development Fund can, over time, result in private financial assistance that is at least ten (10) times the amount of financial assistance provided by the Arkansas Venture Capital Development Fund; and

(3) Have no more than five hundred (500) employees.

(b) Funds from the Arkansas Venture Capital Development Fund shall not be used to provide financial assistance that exceeds five million dollars (\$5,000,000) to any single technology-based enterprise or venture capital fund.

History. Acts 2019, No. 925, § 5.

15-5-1413. Funding of Arkansas Venture Capital Development Fund.

(a) The trustees of the Venture Capital Investment Trust may accept moneys and funds for the Arkansas Venture Capital Development Fund from any source.

(b) Moneys and funds received by the trustees of the trust for the fund shall be dedicated and used solely as authorized in this subchapter.

(c)(1) Moneys and funds received by the Arkansas Development Finance Authority or the Arkansas Economic Development Commission designated for use or ownership by the fund shall be deposited to the trust and held in the Arkansas Venture Capital Development Fund Account, as applicable and as specified in this subchapter, until used for the purposes of this subchapter.

(2) Moneys deposited to the trust for the purposes of providing financial assistance to technology-based enterprises under this subchapter shall be allocated to the account according to a ratio approved by the trustees of the trust.

History. Acts 2019, No. 925, § 5.

15-5-1414. Review committee.

The review committee shall:

- (1) Recommend to the trustees of the Venture Capital Investment Trust the payment of fees and expenses out of the Arkansas Venture Capital Development Fund for the operation of the fund; and
- (2) Approve an investment policy under this subchapter.

History. Acts 2019, No. 925, § 5.

15-5-1415. Annual report.

The trustees of the Venture Capital Investment Trust shall publish an annual report within five (5) months after the close of each fiscal year that shall:

- (1) Include an annual audit of the Arkansas Venture Capital Development Fund's activities conducted by the trustees with the assistance of the review committee;

- (2) Be presented in writing, and by testimony if requested, to the:

- (A) Governor;
- (B) House Committee on Agriculture, Forestry, and Economic Development;
- (C) Senate Committee on Agriculture, Forestry, and Economic Development;
- (D) Arkansas Development Finance Authority; and
- (E) Arkansas Economic Development Commission; and

- (3) Document and review the progress of the trustees of the trust and the review committee in implementing the investment and financial assistance activities under this subchapter.

History. Acts 2019, No. 925, § 5.

15-5-1416. Powers of the trustees of the Venture Capital Investment Trust.

The trustees of the Venture Capital Investment Trust may promulgate guidelines and rules and make any contract, execute any document, perform any act, or enter into any financial or other transaction necessary to implement the duties of the trustees under this subchapter.

History. Acts 2019, No. 925, § 5.

SUBCHAPTER 15 — ARKANSAS BROWNFIELD REVOLVING LOAN FUND ACT

SECTION.

15-5-1502. Definitions.

15-5-1503. Brownfield Revolving Loan Fund — Establishment — Uses.

SECTION.

15-5-1505. Brownfield Revolving Loan Fund — Administration.

15-5-1506. Loans — Grants.

SECTION.

15-5-1509. Administrative fees.

15-5-1510. Collection of fees.

SECTION.

15-5-1511. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-5-1502. Definitions.

As used in this subchapter:

- (1) “Authority” means the Arkansas Development Finance Authority or its successor; and
- (2) [Repealed.]
- (3) “Fund” means the Brownfield Revolving Loan Fund.

History. Acts 2003, No. 1194, § 1; 2019, No. 910, § 3047.

Amendments. The 2019 amendment repealed (2).

15-5-1503. Brownfield Revolving Loan Fund — Establishment — Uses.

(a)(1) There is established on the books of the Arkansas Development Finance Authority a special restricted fund to be known as the “Brownfield Revolving Loan Fund”, which shall be maintained by the authority and administered by the Division of Environmental Quality for the purposes stated under this subchapter.

(2) The authority may create subaccounts within the fund, as necessary.

(b) Moneys in the fund shall be expended in a manner consistent with the terms and conditions of applicable federal and state grants and may be used to:

(1) Provide loans to prospective and actual purchasers of abandoned industrial, commercial, or agricultural sites for assessments, investigations, and remedial actions under § 8-7-1101 et seq.;

(2) Provide grants for assessments, investigations, and remedial actions under § 8-7-1101 et seq. or as consistent with federal law;

(3) Secure the payment of the principal, premium, and interest on and to pay costs incurred in connection with bonds issued by the authority if the net proceeds of the bonds are deposited into the fund;

(4) Fund administrative expenses relating to implementing this subchapter; and

(5) Provide for any other expenditures consistent with applicable federal or state law.

History. Acts 2003, No. 1194, § 1; substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in (a)(1).

Amendments. The 2019 amendment substituted “Division of Environmental Quality” in (a)(1).

15-5-1505. Brownfield Revolving Loan Fund — Administration.

(a)(1) The Brownfield Revolving Loan Fund shall be administered by the Division of Environmental Quality, with the Arkansas Development Finance Authority serving as agent for the division.

(2) The division may establish procedures to administer the fund and the programs financed, in whole or in part, with moneys from the fund that are used for the purposes stated under this subchapter.

(3) The division may enter into contracts and other agreements in connection with the operation of the fund, including contracts and agreements with federal agencies, local governmental entities, the authority, and other persons, to implement this subchapter.

(b) The division shall have full authority to operate the fund and may make withdrawals as necessary to achieve the intended purposes of this subchapter.

History. Acts 2003, No. 1194, § 1; substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in (a)(1); and substituted “division” for “department” throughout the section.

Amendments. The 2019 amendment substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in (a)(1); and substituted “division” for “department” throughout the section.

15-5-1506. Loans — Grants.

(a) With approval of the Division of Environmental Quality, the Arkansas Development Finance Authority may:

(1) Make secured or unsecured loans from the Brownfield Revolving Loan Fund;

(2) Award grants from the fund;

(3) Collect interest on any loans issued; and

(4) Assess penalties on late loan payments.

(b) Loans issued under this subchapter may contain an acceleration clause.

History. Acts 2003, No. 1194, § 1; substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in the introductory language of (a).

Amendments. The 2019 amendment substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in the introductory language of (a).

15-5-1509. Administrative fees.

(a) The Division of Environmental Quality and the Arkansas Development Finance Authority may establish fees for their respective

administrative services under this subchapter, including the costs of financing loans and awarding grants under this subchapter.

(b) The authority to establish fees under this section is supplemental to the authority granted to the division or the Arkansas Development Finance Authority under other laws.

History. Acts 2003, No. 1194, § 1; 2019, No. 910, § 3051.

Amendments. The 2019 amendment substituted “Division of Environmental

Quality” for “Arkansas Department of Environmental Quality” in (a); and substituted “division” for “department” in (b).

15-5-1510. Collection of fees.

(a)(1) With approval of the Division of Environmental Quality, the Arkansas Development Finance Authority may collect administrative fees and remit the fees directly to the authority within fifteen (15) days after each payment is collected.

(2) The authority shall remit any administrative fee owed to the division, and the fees shall be deposited into the Brownfield Revolving Loan Fund on a quarterly basis.

(b) Any administrative fees owed to the authority shall not be deposited into the fund.

History. Acts 2003, No. 1194, § 1; 2019, No. 910, § 3052.

Amendments. The 2019 amendment substituted “Division of Environmental

Quality” for “Arkansas Department of Environmental Quality” in (a)(1); substituted “division” for “department” in (a)(2); and redesignated former (a)(3) as (b).

15-5-1511. Rules.

The Division of Environmental Quality may adopt rules as necessary to implement this subchapter.

History. Acts 2003, No. 1194, § 1; 2019, No. 315, § 1090; 2019, No. 910, § 3053.

Amendments. The 2019 amendment by No. 315 substituted “Rules” for “Regulations” in the section heading and in the text.

The 2019 amendment by No. 910 substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality”.

SUBCHAPTER 16 — ARKANSAS RISK CAPITAL MATCHING FUND ACT OF 2007

[REPEALED.]

SECTION.

15-5-1601 — 15-5-1609. [Repealed.]

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause

provided: “It is found and determined by the General Assembly of the State of Ar-

kansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Effi-

ciencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-5-1601 — 15-5-1609. [Repealed.]

A.C.R.C. Notes. Acts 2019, No. 910, § 3405, amended § 15-5-1603(5) to substitute “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” and Acts 2019, No. 910, §§ 442 and 3406, amended § 15-5-1603(8) to substitute “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” and “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration”. However, Acts 2019, No 925, § 6, specifically repealed § 15-5-1603.

Publisher’s Notes. This subchapter, concerning the Arkansas Risk Capital Matching Fund Act of 2007, was repealed by Acts 2019, No. 925, § 6, effective July 24, 2019. This subchapter was derived from the following sources:

15-5-1601. Acts 2007, No. 1025, § 1.

15-5-1602. Acts 2007, No. 1025, § 1.
15-5-1603. Acts 2007, No. 1025, § 1; 2009, No. 791, § 2; 2013, No. 1095, § 4; 2015 (1st Ex. Sess.), No. 7, §§ 102, 103; 2015 (1st Ex. Sess.), No. 8, §§ 102, 103; 2019, No. 910, §§ 442, 3405, 3406.

15-5-1604. Acts 2007, No. 1025, § 1.
15-5-1605. Acts 2007, No. 1025, § 1; 2009, No. 481, § 4; 2009, No. 791, § 3; 2013, No. 1095, §§ 5-8; 2015 (1st Ex. Sess.), No. 7, § 104; 2015 (1st Ex. Sess.), No. 8, § 104.

Former § 15-5-1606, concerning a private sector advisory committee, was repealed by Acts 2013, No. 1095, § 9. The section was derived from Acts 2007, No. 1025, § 1; 2009, No. 791, § 4.

15-5-1607. Acts 2007, No. 1025, § 1; 2009, No. 791, § 5; 2013, No. 1095, § 10; 2015, No. 1060, § 17; 2015, No. 1149, § 5

15-5-1608. Acts 2007, No. 1025, § 1; 2009, No. 791, § 6; 2013, No. 1095, § 11; 2015 (1st Ex. Sess.), No. 7, § 105; 2015 (1st Ex. Sess.), No. 8, § 105.

15-5-1609. Acts 2007, No. 1025, § 1.

SUBCHAPTER 17 — ARKANSAS HOUSING TRUST FUND ACT OF 2009

SECTION.

15-5-1707. Roles and responsibilities of the Arkansas Housing Trust Fund Advisory Committee.

SECTION.

15-5-1709. Minimum requirements — Distribution of funds — Application evaluation guidelines.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-5-1707. Roles and responsibilities of the Arkansas Housing Trust Fund Advisory Committee.

(a) The Arkansas Housing Trust Fund Advisory Committee will operate within the structure of the Arkansas Development Finance Authority and will advise the Board of Directors of the Arkansas Development Finance Authority on matters relating to the Arkansas Housing Trust Fund and its programs.

(b) The responsibilities of the advisory committee shall be to:

(1) Collaborate with the staff of the authority in drafting rules, compliance responsibilities, set-asides, and funding priorities for the fund and the programs funded by the fund, which rules and policies will be referred by the advisory committee to the authority for its review and approval;

(2) Review and advise the authority on fund marketing efforts;

(3) Review data on the use and impact of the fund compiled by the staff of the authority, which shall be provided to the advisory committee not less frequently than one (1) time a year;

(4) Prepare, working with the staff of the authority or the Department of Commerce, an annual review of the rules, compliance responsibilities, set-asides, funding priorities, and funding decisions, including any recommended changes, which review shall be presented to the board for final approval; and

(5) Prepare an annual performance report for the fund, including information about the fund's success in meeting its intended purposes, which shall be provided to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

History. Acts 2009, No. 661, § 1; 2019, inserted "or the Department of Commerce" in (b)(4). No. 910, § 443.

Amendments. The 2019 amendment

15-5-1709. Minimum requirements — Distribution of funds — Application evaluation guidelines.

(a) In order for a proposal to be an activity eligible for support, the following minimum requirements must be present:

(1) Beneficiaries of the activity must have household incomes equal to or less than eighty percent (80%) of the median household income;

(2) Housing to be funded must meet the same requirements for duration of affordability as set forth in the rules of the Arkansas

Development Finance Authority for its HOME Investment Partnerships Program;

(3) Housing to be funded must adhere to the universal design criteria set forth in the rules of the authority;

(4) Housing to be funded must meet all building and maintenance standards set forth in the rules of the authority; and

(5) No more than ten percent (10%) of the project budget may be spent on administrative costs.

(b)(1) Activities to be funded by the Arkansas Housing Trust Fund shall be selected through a competitive process under rules to be promulgated by the authority.

(2) The rules of the authority shall include incentives, set-asides, or inducements for the development of housing, including without limitation for the following:

(A) Persons with very low income;

(B) Persons living in rural areas;

(C) Homeless persons;

(D) Persons with disabilities;

(E) Elderly persons; and

(F) Victims of domestic violence.

(3) The rules of the authority shall also set forth evaluation criteria, which shall include without limitation the following:

(A) The experience of the entity making the proposal, determined through consideration of the proposer's past history in completing activities of a similar scale and nature;

(B) If rental housing is being proposed, an evaluation of the property management history of the developer and management agent;

(C) The timeliness with which units will be developed or the activity implemented;

(D) The number of years a development shall maintain units at affordable rental or sales prices and the strength of enforcement mechanisms to ensure long-term affordability;

(E) The number of affordable units being made available to households with household incomes at or below thirty percent (30%) of area median household income;

(F) The degree to which fund moneys are used to leverage additional funding and the extent to which fund moneys will be returned through repayment;

(G) The extent to which the activity will leverage or augment local community affordable housing goals or locally adopted affordable housing plans such as revitalization areas or other geographic areas targeted for investment;

(H) The extent to which the activity will minimize negative impacts on existing tenants and community members, with particular emphasis on displacement;

(I) The extent to which housing produced will be part of a mixed income development or neighborhood;

- (J) The extent to which the activity serves households with special needs, including individuals with disabilities, individuals with mental illness, or persons who are elderly, homeless, or victims of domestic violence;
- (K) The extent to which the activity adheres to energy efficiency and other environmental and sustainability standards;
- (L) The extent to which housing will be located near transit, shopping, community services, and other amenities;
- (M) The extent to which financial and home ownership counseling is provided to households served by the activity; and
- (N) The amount of the activity budget spent on administrative costs.

History. Acts 2009, No. 661, § 1; 2019, No. 315, § 1091. deleted “and regulations” following “rules” in (a)(3).
Amendments. The 2019 amendment

SUBCHAPTER 19 — ARKANSAS STUDENT LOAN FINANCING ACT

SECTION.	SECTION.
15-5-1901. Title.	15-5-1905. Excess funds — Allowable investments.
15-5-1902. Creation of the Student Loan Authority Division — Assumption of obligations of Arkansas Student Loan Authority.	15-5-1906. Trust indenture funds and accounts.
15-5-1903. Definitions.	15-5-1907. Students — Power to contract.
15-5-1904. Cash funds — Sufficient redemption fund required.	15-5-1908. Purchase of student loan notes.

Effective Dates. Acts 2017, No. 824, § 19: July 1, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Student Loan Authority may be more efficiently structured; that restructuring will result in cost savings to the taxpayers of the State; and that this act is necessary because the Arkansas Development Finance Authority is well positioned to supervise the administration of a Student Loan Authority Division. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2017.”

15-5-1901. Title.

This subchapter shall be known and may be cited as the “Arkansas Student Loan Financing Act”.

History. Acts 2017, No. 824, § 15.

15-5-1902. Creation of the Student Loan Authority Division — Assumption of obligations of Arkansas Student Loan Authority.

(a)(1) There is established the Student Loan Authority Division of the Arkansas Development Finance Authority.

(2) The division shall be the instrumentality of the state charged with a portion of the responsibility of the state to provide educational opportunities in keeping with all applicable state and federal laws.

(b) The Arkansas Development Finance Authority shall employ professional and clerical assistance, including loan servicing and legal assistance, as it shall deem necessary or appropriate to properly carry out the responsibilities of the division.

(c) The Arkansas Development Finance Authority may adopt such rules to be followed by the division in conducting business as necessary to carry out the purposes of this subchapter, including rules governing:

(1) Compliance statutes or regulations governing the guaranty, insurance, purchase, or other dealing in guaranteed educational loans or education loans by corporations or federal agencies; and

(2) Standards of eligibility for educational institutions, students, and lenders.

(d) As the successor to the Arkansas Student Loan Authority, the division assumes all obligations under all contracts and debt obligations of the Arkansas Student Loan Authority that are effective or outstanding as of July 1, 2017.

History. Acts 2017, No. 824, § 15.

A.C.R.C. Notes. Acts 2017, No. 824, § 1, provided: "Transfer of the Arkansas Student Loan Authority to the Arkansas Development Finance Authority.

"(a)(1) The Arkansas Student Loan Authority is transferred to the Arkansas Development Finance Authority by a type 2 transfer under § 25-2-105.

"(2) For the purposes of this act, the Arkansas Development Finance Authority shall be considered a principal department established by Acts 1971, No. 38.

"(b) All authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or purchasing of

the Arkansas Student Loan Authority are transferred to the Arkansas Development Finance Authority, except as specified by this act.

"(c) All powers, duties, and functions, including rulemaking, regulation, licensing, promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications of the Arkansas Student Loan Authority are transferred to the President of the Arkansas Development Finance Authority.

"(d) The terms of the members of the Arkansas Student Loan Authority board of directors shall expire on the effective date of this act which shall be on and after July 1, 2017."

15-5-1903. Definitions.

As used in this subchapter:

(1)(A) "Education loan" means a loan made to a student or the parent, legal guardian, or sponsor of the student or to an eligible institution for the purpose of financing a student's attendance at the eligible institution.

(B) The loan may provide that the student or parent, legal guardian, sponsor of the student, or eligible institution may be held jointly and severally liable for the education loan;

(2) "Eligible institution" means any public or private postsecondary educational institution whose students are eligible for guaranteed educational loans, an institution of higher learning, or a vocational school as defined by rule of the Arkansas Development Finance Authority as implemented by the Student Loan Authority Division of the Arkansas Development Finance Authority;

(3) "Guaranteed educational loan" means a loan made in accordance with Title IV, Part B, of the Higher Education Act of 1965, 20 U.S.C. § 1071 et seq., or pursuant to an alternative educational loan program undertaken by the division and consistent with this subchapter, to a qualified borrower for payment of educational expenses incurred by a student while attending an eligible institution, the payment of principal of and interest on which is insured by the United States Secretary of Education under the Higher Education Act of 1965, by the Student Loan Guarantee Foundation of Arkansas, its successors or assigns, or by other guarantors as the division may approve;

(4) "Obligation", "bond", or "bonds" means any bond, note, certificate, or other evidence of indebtedness, whether or not the interest on the obligation shall be subject to federal income taxation;

(5) "Qualified borrower" means a student or the parent, legal guardian, or sponsor of a student who:

(A) Qualifies for a guaranteed educational loan; and

(B) Is a resident of the State of Arkansas or has been accepted for enrollment at or is attending an eligible institution within the State of Arkansas or is borrowing from a lender doing business within the State of Arkansas, including the division; and

(6)(A) "Student" means an individual who meets the enrollment and satisfactory progress requirements necessary for making a guaranteed educational loan or an education loan as determined by the division.

(B) "Student" includes a dependent and independent undergraduate, graduate, and professional student.

History. Acts 2017, No. 824, § 15.

15-5-1904. Cash funds — Sufficient redemption fund required.

(a)(1) All moneys received by the Student Loan Authority Division of the Arkansas Development Finance Authority or its trustee as repayment of principal or interest on an education loan or as repayment of principal or interest on a guaranteed educational loan, including payments by the United States as subsidies, in payment of the guarantee on guaranteed educational loans made or purchased under this subchapter or as income on any other investment authorized by this subchapter are specifically declared to be cash funds.

(2) The moneys shall not be deposited into the State Treasury but shall be deposited as required by the agreement or trust indenture for each different series of obligations of the division.

(3) A sufficient amount of such money shall always be made available to any redemption fund securing outstanding obligations of the division to ensure their payment and interest thereon as they mature.

(b) All revenues received by the division, except revenues derived from a state appropriation, are declared to be restricted cash funds and shall be used as provided in this subchapter.

(c) The division may use the proceeds of any bond issues, together with any other available funds, for:

(1) Making loans;

(2) Purchasing loans and security interests in loan participations as authorized;

(3) Paying incidental expenses in connection with loans;

(4) Paying expenses of authorizing and issuing bonds;

(5) Paying interest on bonds until revenues are available in sufficient amounts from the bonds; and

(6) Funding reserves as necessary.

(d) Revenues received by the division shall not be deposited into the State Treasury except those revenues received by state appropriation.

(e) Funds of the division shall not inure to the benefit of or be distributed to employees, officers, or directors of the division except as authorized as reasonable compensation.

(f) The revenues not deposited into the State Treasury shall be deposited into an account or accounts specified by resolution of the division and used for carrying out the provisions of any resolution, indenture securing bonds of the division, or other agreement of the division under this subchapter.

(g) The division may establish one (1) or more special funds or accounts to secure bonds issued as necessary under this subchapter.

History. Acts 2017, No. 824, § 15.

15-5-1905. Excess funds — Allowable investments.

Moneys in funds created by resolution or trust indenture of the Arkansas Development Finance Authority in excess of the amount then necessary for making education loans or guaranteed educational loans and purchasing education loan notes or guaranteed educational loan notes under this subchapter or in excess of the amount necessary to meet current debt service may be invested by the authority or on its behalf in:

(1) Direct obligations or obligations whose principal and interest are guaranteed by the United States;

(2) Direct obligations of or participation certificates guaranteed by the Federal Financing Bank, Federal Intermediate Credit Bank, federal land banks, Federal Home Loan Bank, Government National Mortgage Association, or banks for cooperatives;

(3) Certificates of deposit of any bank, savings and loan association, or trust company whose deposits are fully secured by a pledge of securities of any kind specified in subdivision (1) or subdivision (2) of this section;

(4) Certificates of deposit of any bank, savings and loan association, or trust company, which deposit is fully insured by the Federal Deposit Insurance Corporation;

(5) Repurchase agreements sold by any bank, savings and loan association, or trust company, provided that the repurchase agreement is fully secured by a pledge of securities of any kind specified in subdivision (1) or subdivision (2) of this section;

(6) General obligations of the state or its political subdivisions;

(7) Obligations, including investment agreements, of any bank, savings and loan association, trust company, or other financial institution, or a holding company thereof, whose credit is rated in either of the top two (2) rating categories by a nationally recognized credit rating service or corporation;

(8) Money market funds that invest only in obligations described in subdivision (1) or subdivision (2) of this section, or which are rated in the highest two (2) categories by one (1) or more nationally recognized rating agencies; and

(9) Any other investment permitted by the indenture under which such funds are held, provided that such investment is rated as investment grade by one (1) or more nationally recognized rating agencies.

History. Acts 2017, No. 824, § 15; 2019, No. 384, § 3. substituted “education loans” for “educational loans” twice in the introductory language.

Amendments. The 2019 amendment

15-5-1906. Trust indenture funds and accounts.

(a) All proceeds derived from a particular obligation under this subchapter shall be deposited into funds or accounts to be created pursuant to a trust indenture with a trustee as shall be determined by the Arkansas Development Finance Authority.

(b) Funds credited to an account or fund created by a trust indenture may be used for any or all of the following purposes:

(1) The payment of the necessary expenses, including without limitation, the costs of issuing the authority’s obligations incurred by the authority in carrying out its responsibilities under this subchapter;

(2) The establishment of a debt service reserve account to secure the payment of obligations;

(3) The making of guaranteed educational loans to qualified borrowers;

(4) The purchase or acquisition, either directly or acting through a bank with trust powers for its account, of guaranteed educational loan notes executed after March 30, 1977, by qualified borrowers or of education loan notes;

(5) The acquisition of an investment contract or contracts or any other investments permitted under an indenture of the authority securing its obligations. However, the income from the contract, contracts, or investments, after payment of the obligations and all expenses associated therewith, shall be used by the authority to assist in carrying out its purposes under this subchapter; and

(6) The making of education loans.

History. Acts 2017, No. 824, § 15.

15-5-1907. Students — Power to contract.

(a) For the purpose of this subchapter, a student who is a qualified borrower is vested with full capacity to contract and is bound by any contract executed by him or her under this subchapter.

(b) The fact that the student was a minor at the time he or she executed the note shall not be a defense in any action arising on the note.

History. Acts 2017, No. 824, § 15.

15-5-1908. Purchase of student loan notes.

Before purchasing a guaranteed educational loan note or an education loan note under this subchapter, the Student Loan Authority Division of the Arkansas Development Finance Authority shall reasonably determine that:

(1) The guaranteed educational loan note or education loan note represents a guaranteed educational loan or education loan actually disbursed to a qualified borrower;

(2) Due diligence both in making and collecting the guaranteed educational loan or education loan has been exercised with respect to that guaranteed educational loan or education loan;

(3) The guaranteed educational loan or education loan meets such other reasonable criteria as may be established from time to time by the Arkansas Development Finance Authority; and

(4) Other defects do not exist affecting the ability of the guaranteed educational loan or education loan to be guaranteed.

History. Acts 2017, No. 824, § 15; 2019, No. 384, § 4.

Amendments. The 2019 amendment substituted “education loan” for the second occurrence of “educational loan” in the

introductory language; inserted the first instance of “guaranteed educational loan note or education loan” in (1); and inserted “guaranteed educational loan or education” in (1) through (4).

CHAPTER 6

ARKANSAS RURAL DEVELOPMENT PROGRAM ACT

SECTION.	SECTION.
15-6-103. Definitions.	
15-6-104. Arkansas Rural Development Commission.	vices Division of the Arkansas Economic Development Commission —
15-6-105. Rural Services Division of the Arkansas Economic Development Commission.	Functions, powers, and duties.
15-6-106. Arkansas Rural Development Commission — Rural Ser-	15-6-107. Assistance programs and grants.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-6-103. Definitions.

As used in this chapter:

- (1) “Federal agency” means any department, office, council, or agency of the United States Government or any public benefit corporation or authority authorized by federal statute;
- (2) “Governing body” means:
 - (A) The city council or board of directors for a city of the first class or a city of the second class;
 - (B) The town council for an incorporated town; or
 - (C) The quorum court for a county;
- (3) “Local governmental units” or “local agency” means a city of the first class or a city of the second class, an incorporated town, or a county or an office or department thereof;
- (4) “Municipality” means any city of the first class, city of the second class, or incorporated town established under the laws of the State of Arkansas;
- (5) “Political subdivision” means a county, municipality, and any other unit of local government, including a school district and an improvement district, authorized by law to perform governmental functions;
- (6) “Rural area” or “rural community” means all the territory of the State of Arkansas that is not within the outer boundary of any city or

town having a population of twenty thousand (20,000) or more according to the latest federal decennial census or within the city's or town's neighboring urbanized areas;

(7) "Rural development and revitalization" means those policies, programs, laws, regulations, rules, or other matters having to do with rural areas, including, but not limited to, economic development, employment, local government services and management, business, agriculture, environment, land use and natural resources, human services and community life, health care, education, transportation, community facilities, and housing;

(8) "State" means the State of Arkansas;

(9) "State agency" means any department, board, commission, office, or agency of the State of Arkansas; and

(10) "Urbanized area" means the areas of dense settlement and suburbanization contiguous to the central city of a metropolitan area.

History. Acts 1991, No. 302, § 3; 1999, No. 935, § 2; 2015 (1st Ex. Sess.), No. 7, § 125; 2015 (1st Ex. Sess.), No. 8, § 125; 2019, No. 315, § 1092.

Amendments. The 2019 amendment inserted "rules" following "regulations" in (7).

15-6-104. Arkansas Rural Development Commission.

(a) There is established the Arkansas Rural Development Commission, which shall consist of eleven (11) members from rural areas.

(b) The members shall be appointed as follows:

(1)(A)(i) There shall be seven (7) members of the Arkansas Rural Development Commission appointed by the Governor to serve for terms of five (5) years.

(ii) One (1) member shall be appointed from each of the four (4) congressional districts of the state as constituted January 1, 1990, and shall be a resident of a rural area of that congressional district.

(iii) Three (3) members shall be appointed from the state at large and shall be residents of a rural area.

(B) In the event of a vacancy on the Arkansas Rural Development Commission in one (1) of the Governor's appointee positions due to death, resignation, or other reason, the vacancy shall be filled for the unexpired portion of the term by appointment by the Governor of a person meeting the same qualifications required for initial appointment.

(C)(i) Except as provided in subdivisions (b)(1)(C)(ii)-(iv) of this section, members of the Arkansas Rural Development Commission shall not be eligible for reappointment.

(ii) A member appointed to fill the unexpired portion of a term may be reappointed to serve a five-year term.

(iii) A member appointed to a five-year term by the Governor shall not be eligible for reappointment by the Governor but may be appointed by the President Pro Tempore of the Senate or the Speaker of the House of Representatives.

(iv) The Governor may appoint to a five-year term a person previously appointed to the Arkansas Rural Development Commission by the President Pro Tempore of the Senate or the Speaker of the House of Representatives; and

(2) Two (2) members shall be appointed by and shall serve at the pleasure of the President Pro Tempore of the Senate, and two (2) members shall be appointed by and shall serve at the pleasure of the Speaker of the House of Representatives.

(c) The Arkansas Rural Development Commission shall select by majority vote one (1) of its members to serve as chair and one (1) to serve as vice chair.

(d) Members of the Arkansas Rural Development Commission shall serve without compensation, provided that, in the event funds shall be appropriated for such purposes, the members may receive expense reimbursement in accordance with § 25-16-902.

(e) The Arkansas Rural Development Commission shall advise and assist the Director of the Arkansas Economic Development Commission in the performance of his or her duties under this subchapter.

History. Acts 1991, No. 302, § 4; 1993, No. 448, § 1; 1997, No. 250, § 99; 1997, No. 1354, § 32; 2001, No. 1288, § 8; 2009, No. 541, § 1; 2015 (1st Ex. Sess.), No. 7, § 126; 2015 (1st Ex. Sess.), No. 8, § 126; 2019, No. 910, § 444.

Amendments. The 2019 amendment substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (e).

15-6-105. Rural Services Division of the Arkansas Economic Development Commission.

(a) There is created the Rural Services Division of the Arkansas Economic Development Commission.

(b) The head of the division shall be the Director of the Arkansas Economic Development Commission.

(c) The Governor shall direct that all state agencies provide the director with assistance in advancing the purpose of the division to assure that the activities of the division are fully coordinated with the activities of state agencies providing related services.

History. Acts 1991, No. 302, § 5; 1999, No. 935, § 3; 2015 (1st Ex. Sess.), No. 7, § 127; 2015 (1st Ex. Sess.), No. 8, § 127; 2019, No. 910, § 445.

Amendments. The 2019 amendment substituted "Director of the Arkansas Eco-

nomic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (b); deleted (c) and redesignated former (d) as (c); and deleted "executive" preceding "director" in (c).

15-6-106. Arkansas Rural Development Commission — Rural Services Division of the Arkansas Economic Development Commission — Functions, powers, and duties.

(a) The Director of the Arkansas Economic Development Commission by and through the Rural Services Division of the Arkansas Economic Development Commission shall have the following functions, powers, and duties:

(1) To serve as a clearinghouse and provide comprehensive information relating to rural development and revitalization upon request to any agency, individual, or corporation;

(2) To advise and assist agencies, individuals, and corporations in answering particular rural revitalization and development needs, including cooperative efforts among such agencies, individuals, and corporations to solve common problems or provide services in these areas;

(3)(A) To receive notification from all state and federal agencies, individuals, or corporations engaged in rural development and revitalization of program descriptions, appropriation data, and application procedures.

(B) The division shall maintain a listing of existing programs and advise local agencies, individuals, or corporations of their existence;

(4) To assist, upon request, applicant local agencies, individuals, or corporations located in rural areas in obtaining timely and efficient responses from state and federal agencies, to assist such applicants in consideration of alternative program grant strategies, to assist state and federal agencies in cooperative approaches to address the needs of such applicants, and to provide technical assistance to agencies in formulating and implementing rural development and revitalization programs;

(5) To assist the Secretary of the Department of Commerce and the General Assembly in the integration and formulation of state rural development and revitalization policy and long-range plans for rural areas and in answering needs related thereto;

(6) To analyze and make recommendations concerning proposed new state legislation or programs that may affect rural areas;

(7) To apply for and receive grants or financial assistance from the United States Government or other agencies, individuals, or corporations;

(8) To assist the secretary in coordinating the activities and services of those departments and agencies of the state having relationships with local rural agencies, individuals, and corporations in order to provide more effective service to them and to simplify state procedures relating thereto;

(9) To keep the secretary informed about the problems and needs of agencies, individuals, and corporations that are involved with rural development and revitalization and to assist in formulating policies

with respect thereto and utilizing the resources of state government for the benefit of rural areas;

(10) To promote and encourage the establishment of a nonprofit foundation, a Center for Rural Arkansas, and to cooperate and coordinate with and assist the center in accessing state and United States Government and private nonprofit and corporate foundation grant funds to aid in rural development and revitalization for rural Arkansas; and

(11) To administer the conservation education programs established under § 6-16-1101 for the benefit of all school districts and conservation districts in the state, regardless of population.

(b) The director may prescribe and issue, pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., such reasonable rules as may be necessary to carry out the provisions of this chapter.

(c) The division shall prepare and submit biennially on January 1 a comprehensive report concerning the assistance activities undertaken by the division, any recommendations for legislative proposals, data concerning program activities in rural areas, and other pertinent information which will indicate the activities conducted by the division in the previous biennium.

History. Acts 1991, No. 302, §§ 4, 6; 1993, No. 448, § 2; 1999, No. 935, § 4; 2015, No. 371, § 3; 2015 (1st Ex. Sess.), No. 7, § 128; 2015 (1st Ex. Sess.), No. 8, § 128; 2019, No. 910, § 446.

Amendments. The 2019 amendment substituted “Director of the Arkansas Economic Development Commission” for “Ex-

ecutive Director of the Arkansas Economic Development Commission” in the introductory language of (a); substituted “Secretary of the Department of Commerce” for “Governor” in (a)(5); substituted “secretary” for “Governor” in (a)(8) and (a)(9); and deleted “executive” preceding “director” in (b).

15-6-107. Assistance programs and grants.

(a) The Rural Services Division of the Arkansas Economic Development Commission shall request such specific information as the Director of the Arkansas Economic Development Commission determines to be necessary concerning assistance programs and grants administered by federal, state, and local agencies, individuals, and corporations designed to enhance rural areas. The information shall be used to advise local agencies, individuals, or corporations for the purpose of promoting coordination in program or grant efforts wherever feasible or proper.

(b) Any political subdivision requesting program grants or assistance in order to address rural development and revitalization needs, conditions, or strengths in rural areas, pursuant to the rules of the Arkansas Economic Development Commission, may confer with the division to obtain assistance in gaining the most prompt and efficient processing and review of any grant applications.

(c) The division, so far as possible, shall render such assistance, and the director may designate an officer or employee of the division to act as an expeditor for the purpose of:

(1) Facilitating contacts for the applicant with state, federal, or local agencies, individuals, or corporations responsible for processing and reviewing grant applications;

(2) Arranging conferences to clarify the interest and requirements of any such agency, individual, or corporation with respect to grant applications;

(3) Considering with the agency, individual, or corporation the feasibility of consolidating hearings and data required of the applicant;

(4) Assisting the applicant in the resolution of outstanding issues identified by the agency, individual, or corporation, including delays experienced in application review; and

(5) Coordinating federal, state, and local grant application review actions and assistance programs to the extent practicable.

History. Acts 1991, No. 302, § 7; 1999, No. 935, § 5; 2015 (1st Ex. Sess.), No. 7, § 129; 2015 (1st Ex. Sess.), No. 8, § 129; 2019, No. 910, §§ 447, 448.

Amendments. The 2019 amendment substituted “Director of the Arkansas Eco-

nomic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in the first sentence of (a); and deleted “executive” preceding “director” in the introductory language of (c).

CHAPTER 9

COMMISSION ON INFORMATION AGE COMMUNITIES ACT

[Repealed.]

SECTION.

15-9-101 — 15-9-105. [Repealed.]

15-9-101 — 15-9-105. [Repealed.]

Publisher’s Notes. This chapter, concerning the Commission on Information Age Communities Act, was repealed by Acts 2017, No. 540, § 14. The chapter was derived from the following sources:

15-9-101. Acts 1999, No. 712, § 1.

15-9-102. Acts 1999, No. 712, § 2.

15-9-103. Acts 1999, No. 712, § 3.

15-9-104. Acts 1999, No. 712, § 4; 2015, No. 1100, § 13; 2015 (1st Ex. Sess.), No. 7, § 106; 2015 (1st Ex. Sess.), No. 8, § 106.

15-9-105. Acts 1999, No. 712, § 5.

CHAPTER 10

ENERGY CONSERVATION AND DEVELOPMENT

SUBCHAPTER.

1. GENERAL PROVISIONS.

2. ARKANSAS ENERGY REORGANIZATION AND POLICY ACT OF 1981.

3. NUCLEAR POWER GENERALLY.

8. ARKANSAS ALTERNATIVE ENERGY COMMISSION.

9. ARKANSAS ALTERNATIVE MOTOR FUEL DEVELOPMENT ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS**SECTION.****15-10-101. Electric Vehicle Infrastructure Grant Program.**

Effective Dates. Acts 2021, No. 781, § 4: Apr. 20, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that federal funding for electric vehicle infrastructure will soon be available to states and that Arkansas needs to be competitive in its ability to obtain and utilize the federal funding as soon as possible; and that establishing an electric vehicle infrastructure program and fund are vital to the state's ability to immediately obtain the federal funding when available to increase the electric vehicle infrastructure in the state, which will have an impact on the state's economy by

creating jobs and incentivizing manufacturers and other businesses to increase this industry in Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

15-10-101. Electric Vehicle Infrastructure Grant Program.

(a) There is created within the Department of Energy and Environment the Electric Vehicle Infrastructure Grant Program to be administered by the Secretary of the Department of Energy and Environment.

(b) The secretary has exclusive authority to award grants to public or private entities under the program to be used for construction, installation, and associated costs connected with the deployment of Level 2 and Level 3 charging facilities.

History. Acts 2021, No. 781, § 2.

A.C.R.C. Notes. Acts 2021, No. 781, § 1, provided: "Legislative findings. The General Assembly finds that:

"(1) Electric vehicles are becoming more prevalent both throughout the country and in the State of Arkansas;

"(2) Despite the growing number of electric vehicles, a lack of electric vehicle infrastructure has created an obstacle for consumers, retailers, and manufacturers;

"(3) The Division of Environmental Quality has recently implemented a program to help expand electric vehicle charging infrastructure throughout Arkansas that is funded by settlement funds

from the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia;

"(4) While the division program has worked to expand the electric vehicle infrastructure in Arkansas, the state ranks last in the country for its electric vehicle infrastructure;

"(5) Recent federal activity indicates that federal funding for electric vehicle infrastructure will be available soon; and

"(6) Arkansas needs to take steps now to be ready to accept and utilize this federal funding to improve electric vehicle infrastructure throughout the state."

SUBCHAPTER 2 — ARKANSAS ENERGY REORGANIZATION AND POLICY ACT OF 1981

SECTION.

- 15-10-202. Declaration of policy.
- 15-10-203. Arkansas Energy Office — Creation.
- 15-10-204. Arkansas Energy Office — Director.
- 15-10-205. Arkansas Energy Office of the Division of Environmental

SECTION.

- Quality — Powers and duties.
- 15-10-207. Reporting regarding the Weatherization Assistance Program.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-10-202. Declaration of policy.

The General Assembly finds and declares that:

- (1) The adequacy of future energy supplies will be crucial to the state’s economic development;
- (2) In order to create a favorable environment for economic development and in order to preserve and enhance our present quality of life, Arkansas must promote the efficient use of energy and the development of a reliable and economic energy delivery system which includes the use of renewable energy resources as well as conventional sources of energy such as coal, lignite, uranium, oil, and natural gas;
- (3) The need exists for comprehensive state leadership to ensure the wise and efficient production, distribution, use, and conservation of energy;
- (4) Only an agency with comprehensive duties and powers can collect, analyze, and disseminate information necessary to promote a reliable and efficient energy delivery system for the state;
- (5) It is in the best interest of the citizens of this state to establish the Arkansas Energy Office of the Division of Environmental Quality to coordinate the planning and execution of comprehensive energy conservation programs; and
- (6) The development and use of a diverse array of energy resources must be encouraged.

History. Acts 1981, No. 7, § 2; A.S.A. 1947, § 5-937; Acts 1997, No. 540, § 34; 2017, No. 271, § 5; 2019, No. 910, § 3054.

Amendments. The 2017 amendment substituted “the Arkansas Energy Office of the Arkansas Department of Environmental Quality” for “a division within the

Arkansas Economic Development Commission” in (5).

The 2019 amendment substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in (5).

15-10-203. Arkansas Energy Office — Creation.

(a)(1) There is created the Arkansas Energy Office of the Division of Environmental Quality.

(2)(A) The executive head of this office shall be the Director of the Arkansas Energy Office.

(B) The Director of the Arkansas Energy Office shall be appointed by the Secretary of the Department of Energy and Environment with the advice and consent of the Governor.

(b) The office shall consist of such sections as may be established by the Director of the Arkansas Energy Office, with the approval of the Director of the Division of Environmental Quality and the secretary.

History. Acts 1981, No. 7, § 3; A.S.A. 1947, § 5-938; Acts 1997, No. 540, § 35; 2017, No. 271, § 6; 2019, No. 910, § 3055.

A.C.R.C. Notes. Acts 2017, No. 271, § 1, provided: “Transfer of the Arkansas Energy Office to the Arkansas Department of Environmental Quality.

“(a)(1) The Arkansas Energy Office is transferred to the Arkansas Department of Environmental Quality by a type 2 transfer under § 25-2-105.

“(2) For the purposes of this act, the Arkansas Department of Environmental Quality shall be considered a principal department established by Acts 1971, No. 38.

“(b) All authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or purchasing of the Arkansas Energy Office, are transferred to the Arkansas Department of Environmental Quality, except as specified by this act.

“(c)(1) All powers, duties, and functions, including rulemaking, regulation, promulgation of rules, regulations, rates, and standards, and the rendering of findings, orders, and adjudications of the Arkansas Energy Office are transferred to the Arkansas Pollution Control and Ecology Commission.

“(2)(A) All rules and regulations promulgated by the Arkansas Energy Office

in effect on January 1, 2017, are transferred as a matter of law to the Arkansas Pollution Control and Ecology Commission on the effective date of this act and shall be considered an officially promulgated regulation of the Arkansas Pollution Control and Ecology Commission from that date forward except as provided under subdivision (c)(3) of this section.

“(B) Arkansas Pollution Control and Ecology Commission Regulation No. 8 concerning rulemaking shall not apply to any rules transferred under this subdivision (c)(2).

“(3) A new regulation or regulatory amendment to an existing rule or regulation that is proposed after the effective date of this act and concerns the administration of the Arkansas Energy Office shall be promulgated by and through the Arkansas Pollution Control and Ecology Commission under the authority of § 8-1-203.

“(d) The employees and designees of the Arkansas Energy Office and their successors shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to the Arkansas Energy Office except as specified in this act.”

Amendments. The 2017 amendment, substituted “the Arkansas Energy Office of the Arkansas Department of Environmental Quality” for “an Arkansas Energy Office, also referred to in this subchapter

as the 'office', as a division within the Arkansas Economic Development Commission" in (a)(1); substituted "office" for "division" in (a)(2)(A); substituted "Director of the Arkansas Department of Environmental Quality" for "Executive Director of the Arkansas Economic Development Commission" in (a)(2)(B); and, in (b), substituted "sections" for "divisions" and "Director of the Arkansas Department of Environmental Quality"

for "Executive Director of the Arkansas Economic Development Commission".

The 2019 amendment substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality" in (a)(1) and (b); substituted "Secretary of the Department of Energy and Environment" for "Director of the Arkansas Department of Environmental Quality" in (a)(2)(B); and added "and the secretary" in (b).

15-10-204. Arkansas Energy Office — Director.

(a) Each division of the Arkansas Energy Office of the Division of Environmental Quality shall be under the direct control and supervision of the Director of the Arkansas Energy Office.

(b) The Director of the Arkansas Energy Office may delegate his or her functions, powers, and duties to various divisions of the office as he or she may deem desirable and necessary for the effective and efficient operation of the office.

(c) In addition to other duties and functions prescribed for the Director of the Arkansas Energy Office elsewhere in this subchapter, the Director of the Arkansas Energy Office shall supervise the daily operation of the office and advise the Director of the Division of Environmental Quality, the Governor, and the General Assembly on energy matters.

History. Acts 1981, No. 7, § 3; A.S.A. 1947, § 5-938; Acts 1997, No. 540, § 36; 2017, No. 271, § 7; 2019, No. 910, § 3056.

Amendments. The 2017 amendment, in (c), twice inserted "of the Arkansas Department of Environmental Quality" and substituted "Director of the Arkansas

Department of Environmental Quality" for "Executive Director of the Arkansas Economic Development Commission".

The 2019 amendment substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality" in (c).

15-10-205. Arkansas Energy Office of the Division of Environmental Quality — Powers and duties.

(a) The Arkansas Energy Office of the Division of Environmental Quality shall coordinate authority and planning by the state in energy-related matters and shall have the following duties and responsibilities:

(1) Coordinating energy matters between and among all state agencies;

(2) Compiling an energy profile for the state which includes, but is not limited to, data on the demand for and supply of renewable and nonrenewable energy resources;

(3) Collecting data on, planning, and administering emergency plans, when needed, to allocate the distribution of motor fuels, aviation fuels, heating oil, and propane by wholesale jobbers and dealers within the state;

(4) Collecting data on, planning, and administering emergency plans, when needed, for the conservation or rationing of motor fuels;

(5) Proposing executive and legislative measures on energy-related matters;

(6) Providing comments before state and federal regulatory bodies on energy matters mandated by federal and state agencies;

(7) Monitoring and evaluating existing and proposed actions, laws, policies, regulations, rules, and orders of the state and federal governments in energy matters relevant to Arkansas;

(8) Securing and administering federal energy grants for agencies of state government and monitoring and publicizing federal energy grants available to the private sector;

(9) Carrying out energy-related administrative and program functions established and required by federal law, regulations, or guidelines when applicable in Arkansas;

(10) Developing and administering conservation programs directed toward reducing wasteful, inefficient uses of energy;

(11) Developing and proposing thermal and lighting efficiency improvement programs for all buildings owned by the state and prescribing reasonable thermal and lighting efficiency criteria applicable to the leasing of buildings by all state agencies; and

(12) Administering a public energy awareness program to inform and demonstrate to the public the importance and methods of utilizing energy conservation and renewable energy resources.

(b) The office may:

(1) Provide comments before state and federal bodies in energy matters relevant to Arkansas;

(2) Receive and expend funds obtained from the United States Government or other sources by means of contracts, grants, awards, payment for services, and other devices in support of energy-related programs, studies, or other operations beneficial to the State of Arkansas; and

(3) Propose programs for the implementation of thermal and lighting efficiency improvements for all buildings owned by the state and prescribe reasonable thermal and lighting efficiency criteria applicable to the leasing of buildings by all state agencies.

(c) The Arkansas Pollution Control and Ecology Commission may promulgate rules necessary to administer this section for the purposes of:

(1) Implementing and prescribing enforcement for thermal and lighting efficiency standards for new building construction;

(2) Requiring a city or county that issues building permits for new building construction to adopt the Arkansas Energy Code for New Building Construction; and

(3) Administering emergency plans as referred to in subdivision (a)(4) of this section.

History. Acts 1981, No. 7, § 3; A.S.A. 1947, § 5-938; Acts 1993, No. 234, § 1; 1993, No. 248, § 1; 2009, No. 1196, §§ 1, 2; 2011, No. 802, § 1; 2017, No. 271, § 8; 2019, No. 315, §§ 1093, 1094; 2019, No. 910, § 3057.

Amendments. The 2017 amendment inserted “of the Arkansas Department of Environmental Quality” in the section heading and in the introductory language of (a); deleted former (a)(11) and redesignated the remaining subdivisions accordingly; substituted “may” for “shall have the authority to” in the introductory lan-

guage of (b); deleted former (b)(3) and redesignated former (b)(4) as (b)(3); deleted (b)(5); rewrote (c); and made stylistic changes.

The 2019 amendment by No. 315 inserted “rules” following “regulations” in (a)(7); and substituted “rules” for “regulations” in the introductory language of (c).

The 2019 amendment by No. 910 substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in the introductory language of (a).

15-10-207. Reporting regarding the Weatherization Assistance Program.

The Arkansas Energy Office of the Division of Environmental Quality shall report to the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor concerning the Weatherization Assistance Program as transferred to the office under § 25-14-103 and as authorized under § 15-10-205(a):

(1) When the office applies to the United States Department of Energy for the funding for the program as described in the state plan;

(2) At the midyear point of the program to show the statistics relating to budgeting, enrollment, and other information relating to the program; and

(3) At the end of the year of the program to show the total impact of the program and to discuss the renewal application for the funding for the program as described in the state plan.

History. Acts 2019, No. 790, § 1.

SUBCHAPTER 3 — NUCLEAR POWER GENERALLY

SECTION.

15-10-301. Declaration of policy.

15-10-304. Studying the need for changes in law.

SECTION.

15-10-305. Coordinator of Atomic Development Activities.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-10-301. Declaration of policy.

(a) The State of Arkansas endorses the action of the United States Congress in enacting the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., to institute a program to encourage the widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public and therefore declares the policy of the state to be:

(1) To cooperate actively in the program thus instituted; and

(2) To the extent that the regulation of special nuclear materials and by-product materials, of production facilities and utilization facilities, and of persons operating such facilities may be within the jurisdiction of the state, to provide for the exercise of the state's regulatory authority so as to conform, as nearly as may be, to the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., and regulations issued thereunder, to the end that there may be, in effect, a single harmonious system of regulation within the state.

(b) The State of Arkansas recognizes that the development of industries producing or utilizing atomic energy may result in new conditions calling for changes in the laws of the state and in rules issued thereunder with respect to health and safety; working conditions; workers' compensation; transportation; public utilities; life, health, accident, fire, and casualty insurance; the conservation of natural resources, including wildlife; and the protection of streams, rivers, and airspace from pollution, and therefore declares the policy of the state to be to:

(1) Adapt its laws and rules to meet the new conditions in ways that will encourage the healthy development of industries or utilizing atomic energy while at the same time protecting the public interest;

(2) Initiate continuing studies of the need for changes in the relevant laws and rules of the state by the respective departments and agencies of the state which are responsible for their administration; and

(3) Assure the coordination of the studies thus undertaken, particularly with other atomic industrial development activities of the state and with the development and regulatory activities of other states and of the United States Government.

History. Acts 1957, No. 386, § 1; A.S.A. 1947, § 82-1401; Acts 2019, No. 315, § 1095.

Amendments. The 2019 amendment substituted "rules" for "regulations" throughout (b).

15-10-304. Studying the need for changes in law.

(a) Each of the following departments and agencies of state government is directed to initiate and to pursue continuing studies as to the need, if any, for changes in the laws and rules administered by it that would arise from the presence within the state of special nuclear material and by-product material and from the operation herein of production facilities or utilization facilities.

(b) On the basis of such studies, each of these departments and agencies is to make recommendations for the enactment of laws or amendments to laws administered by it and proposals for amendments to the rules issued by it, as may appear necessary and appropriate:

(1) The State Board of Health, particularly as to hazards, if any, to the public health and safety;

(2) The Division of Labor, particularly as to hazardous working conditions, if any;

(3) The Workers' Compensation Commission, particularly as to the time and character of proof of claims of injuries and the extent of the compensation allowable therefor;

(4) The Arkansas Department of Transportation, particularly as to the transportation of special nuclear material and by-product material on highways of the state;

(5) The Arkansas Public Service Commission, particularly as to the transportation of special nuclear materials and by-product materials by common carriers not in interstate commerce and as to the participation by public utilities subject to its jurisdiction in projects looking to the development of production facilities or utilization facilities for industrial or commercial use;

(6) The State Insurance Department, particularly as to the insurance of persons and property from hazards to life and property resulting from atomic development;

(7) The Arkansas Geological Survey, particularly as to the hazards, if any, to the natural resources of the state, including wildlife, and as to the protection, if necessary, of rivers, streams, and airspace from pollution; and

(8) Such other departments and agencies, including departments and agencies of political subdivisions of the state, as the Governor may direct and for the purposes specified by him or her.

History. Acts 1957, No. 386, § 3; A.S.A. 1947, § 82-1403; Acts 2017, No. 707, § 33; 2019, No. 315, § 1096; 2019, No. 910, § 5405.

Amendments. The 2017 amendment substituted "Arkansas Department of Transportation" for "Arkansas State Highway and Transportation Department" in (b)(4).

The 2019 amendment by No. 315 substituted "rules" for "regulations" in (a) and the introductory language of (b).

The 2019 amendment by No. 910 substituted "Division of Labor" for "Department of Labor" in (b)(2).

15-10-305. Coordinator of Atomic Development Activities.

(a)(1) The Governor may appoint a citizen of this state as the Coordinator of Atomic Development Activities.

(2) The person appointed shall serve as:

(A) Advisor to the Governor with respect to atomic industrial development within the state;

(B) Coordinator of the development and regulatory activities of the state relating to the industrial and commercial uses of atomic energy; and

(C) Deputy of the Governor in matters relating to atomic energy, including cooperation with other states and with the United States Government.

(b)(1) The coordinator shall have the duty of coordinating the studies, recommendations, and proposals of the several departments and agencies of the state and its political subdivisions required by § 15-10-304 with each other and also with the programs and activities of the Arkansas Economic Development Council.

(2) So far as may be practicable, he or she shall coordinate the studies conducted and the recommendations and proposals made in this state with like activities in other states and with the policies and regulations of the United States Nuclear Regulatory Commission.

(3) In carrying out his or her duties, he or she shall proceed in close cooperation with the council.

(c)(1) The several departments and agencies of the state and its political subdivisions that are directed by § 15-10-304 to initiate and pursue continuing studies are further directed to keep the coordinator fully and currently informed as to their activities relating to atomic energy.

(2) No rule or amendment to a rule applying specifically to an atomic energy matter which any such department or agency may propose to issue shall become effective until thirty (30) days after it has been submitted to the coordinator unless, upon a finding of emergency need, the Governor by order waives all or any part of this thirty-day period.

(d) The coordinator shall keep the Governor and the several interested departments and agencies informed as to private and public activities affecting atomic industrial development and shall enlist their cooperation in taking action to further such development as is consistent with the health, safety, and general welfare of this state.

History. Acts 1957, No. 386, § 4; A.S.A. 1947, § 82-1404; Acts 1997, No. 540, § 37; 2019, No. 315, § 1097.

Amendments. The 2019 amendment substituted “rule” for “regulation” twice in (c)(2).

SUBCHAPTER 8 — ARKANSAS ALTERNATIVE ENERGY COMMISSION

SECTION.

15-10-801. Arkansas Alternative Energy Commission.

15-10-801. Arkansas Alternative Energy Commission.

(a) There is created the Arkansas Alternative Energy Commission.

(b) The commission shall consist of fifteen (15) diverse members appointed as follows:

(1) Five (5) members appointed by the Governor as follows:

(A) Two (2) members to represent utility companies that are concerned with alternative energy development; and

(B) Three (3) members who are consumers concerned with alternative energy development;

(2) Five (5) members appointed by the Speaker of the House of Representatives as follows:

(A) Two (2) members to represent utility companies that are concerned with alternative energy development; and

(B) Three (3) members who are consumers concerned with alternative energy development; and

(3) Five (5) members appointed by the President Pro Tempore of the Senate as follows:

(A) Two (2) members to represent utility companies that are concerned with alternative energy development; and

(B) Three (3) members who are consumers concerned with alternative energy development.

(c) The Governor shall appoint a chair for the commission.

(d)(1) A majority of the membership of the commission shall constitute a quorum.

(2) A majority vote of those members present shall be required for any action of the commission.

(e) The commission shall meet at least one (1) time every three (3) months but may meet more often at the call of the chair.

(f) A vacancy arising in the membership of the commission for any reason other than expiration of the regular terms for which the members are appointed shall be filled by appointment by the person or persons who appointed the vacating member.

(g)(1) The Bureau of Legislative Research shall provide staff for the commission.

(2) The commission shall conduct its meetings in Pulaski County at the State Capitol or at other locations that the commission considers appropriate.

(h) This section shall expire on September 30, 2017.

History. Acts 2009, No. 1301, § 1; 2016 (3rd Ex. Sess.), No. 2, § 32; 2016 (3rd Ex. Sess.), No. 3, § 32; 2017, No. 374, § 20.

Amendments. The 2017 amendment deleted former (c)(2) and redesignated former (c)(1) as present (c).

SUBCHAPTER 9 — ARKANSAS ALTERNATIVE MOTOR FUEL DEVELOPMENT ACT

SECTION.

15-10-901. Title.

15-10-902. Definitions.

15-10-903. Rebate for refueling stations.

SECTION.

15-10-904. Rebates for qualified alternative motor vehicle property.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: "It is found and determined by

the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should be-

come effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-10-901. Title.

This subchapter shall be known and may be cited as the "Arkansas Alternative Motor Fuel Development Act".

History. Acts 2013, No. 532, § 1; 2017, No. 851, § 1. substituted "Alternative" for "Clean-burning".

Amendments. The 2017 amendment

15-10-902. Definitions.

As used in this subchapter:

- (1) "Compressed natural gas" means compressed natural gas that is to be delivered to a motor vehicle at a pressure of at least three thousand pounds per square inch (3,000 psi);
- (2) "Compressed natural gas refueling station" means property that:
 - (A) Is directly related to the delivery of compressed natural gas into the fuel tank of a licensed motor vehicle, including without limitation the compression equipment, storage vessels, quality control equipment, and dispensers for compressed natural gas;
 - (B) Is available to the public twenty-four (24) hours each day;
 - (C) Is metered on a gasoline gallon equivalent basis; and
 - (D) Contains a credit card reader that allows for the use of a credit card or debit card to purchase the compressed natural gas;
- (3) "Diesel gallon equivalent" means six and twenty-two hundredths pounds (6.22 lbs.) of liquefied natural gas;
- (4) "Electric vehicle" means a plug-in electric drive motor vehicle that is propelled by one (1) or more electric motors using electrical energy stored in rechargeable batteries or other energy storage devices;
- (5) "Gasoline gallon equivalent" means five and sixty-six hundredths pounds (5.66 lbs.) of compressed natural gas or one hundred twenty-six and sixty-seven hundredths cubic feet (126.67 cu. ft.) of natural gas;
- (6) "Liquefied natural gas" means natural gas that is super-cooled into a liquid fuel that is used primarily in medium-duty and heavy-duty vehicles;
- (7) "Liquefied natural gas refueling station" means property that:
 - (A) Is directly related to the delivery of liquefied natural gas into the fuel tank of a licensed motor vehicle, including without limitation the compression equipment, refrigeration equipment, storage vessels, and dispensers for liquefied natural gas;

- (B) Is available to the public twenty-four (24) hours each day;
 - (C) Is metered on a diesel gallon equivalent basis; and
 - (D) Contains a credit card reader that allows for the use of a credit card or debit card to purchase the liquefied natural gas;
- (8)(A) "Liquefied petroleum gas" means gas derived from petroleum or natural gas that is:

- (i) In a gaseous state at normal atmospheric temperature and pressure but may be maintained in a liquid state at normal atmospheric temperature by the application of sufficient pressure; and
- (ii) Normally stored as a liquid under pressure.

(B) "Liquefied petroleum gas" does not include pentane, gasoline, or oil;

(9) "Liquefied petroleum gas refueling station" means property that:

(A) Is directly related to the delivery of liquefied petroleum gas into the fuel tank of a licensed motor vehicle, including without limitation the compression equipment, storage vessels, and dispensers for liquefied petroleum gas;

(B) Is available to the public twenty-four (24) hours each day;

(C) Is metered on a gasoline gallon equivalent basis; and

(D) Contains a credit card reader that allows for the use of a credit card or debit card to purchase the liquefied petroleum gas;

(10) "Motor vehicle" means a motor vehicle licensed under the laws of this state or another state that was originally designed by the manufacturer to operate lawfully and principally on highways, roads, and streets;

(11) "Private electric vehicle charging station" means a charging station of two hundred forty volts (240 V) or less that is purchased for private use and supplies electricity for charging one (1) or more electric vehicles;

(12) "Public electric vehicle charging station" means a charging station of two hundred forty volts (240 V) or more that:

(A) Supplies electricity for charging one (1) or more electric vehicles;

(B) Is available to the public twenty-four (24) hours a day; and

(C) Contains a credit card reader that allows for the use of a credit card or debit card to purchase electricity;

(13) "Qualified alternative motor vehicle fuel" means electricity, a hydrogen fuel cell, compressed natural gas, liquefied natural gas, or liquefied petroleum gas; and

(14) "Qualified alternative motor vehicle property" means:

(A) New equipment that:

(i) Is installed:

(a) By a certified mechanic;

(b) On a motor vehicle with a model year that is no older than one (1) model year older than the current year; and

(c) To convert a motor vehicle propelled by gasoline or diesel fuel to be propelled by a qualified alternative motor vehicle fuel;

(ii) Is approved by the United States Environmental Protection Agency under 40 C.F.R. Part 85 Subpart F, 40 C.F.R. § 85.501 et seq., and 40 C.F.R. Part 86 Subpart S, 40 C.F.R. § 86.1801-01 et seq.; and

(iii) Has not been used to modify or retrofit any other motor vehicle propelled by gasoline or diesel fuel;

(B) The portion of the basis of a motor vehicle with a model year that is no older than one (1) model year older than the current year and that was originally equipped to be propelled by a qualified alternative motor vehicle fuel that is attributable to the:

(i) Storage of the qualified alternative motor vehicle fuel;

(ii) Delivery of the qualified alternative motor vehicle fuel to the motor vehicle's engine; and

(iii) Exhaust of gases from the combustion of the qualified alternative motor vehicle fuel; or

(C) New property that:

(i) Is directly related to the:

(a) Compression and delivery of natural gas from a private home or residence for noncommercial purposes into the fuel tank of a motor vehicle propelled by compressed natural gas; or

(b) Delivery of electricity from a private home or residence for noncommercial purposes into a motor vehicle propelled by electricity; and

(ii) Has not been previously installed or used at another location to refuel motor vehicles powered by natural gas or electricity.

History. Acts 2013, No. 532, § 1; 2017, No. 851, §§ 2-8.

Amendments. The 2017 amendment added the definitions for "Electric ve-

hicle", "Private electric vehicle charging station", and "Public electric vehicle charging station"; and rewrote the existing definitions.

15-10-903. Rebate for refueling stations.

(a)(1) The Arkansas Energy Office of the Division of Environmental Quality may offer a rebate for each approved private electric vehicle charging station, public electric vehicle charging station, compressed natural gas refueling station, liquefied natural gas refueling station, and liquefied petroleum gas refueling station that is:

(A) Not more than seventy-five percent (75%) of the qualifying costs of the compressed natural gas refueling station, liquefied natural gas refueling station, or liquefied petroleum gas refueling station, not to exceed four hundred thousand dollars (\$400,000);

(B) Not more than fifty percent (50%) of the eligible equipment purchase and installation cost of the private electric vehicle charging station, not to exceed nine hundred dollars (\$900); or

(C) Not more than fifty percent (50%) of the eligible equipment purchase and installation cost of the public electric vehicle charging station, not to exceed five thousand dollars (\$5,000).

(2) The Director of the Division of Environmental Quality may increase the rebate percentages listed under subdivision (a)(1) of this

section if the increase is designated or authorized by a funding source approved by a federal settlement or state settlement.

(b) A rebate offered under this section does not apply to any of the following:

(1) The cost of land for the private electric vehicle charging station, public electric vehicle charging station, compressed natural gas refueling station, liquefied natural gas refueling station, or liquefied petroleum gas refueling station;

(2) The cost of any buildings for the private electric vehicle charging station, public electric vehicle charging station, compressed natural gas refueling station, liquefied natural gas refueling station, or liquefied petroleum gas refueling station; and

(3) Any costs not directly associated with the compression, storage, or dispensing of compressed natural gas, or the storage and dispensing of liquefied natural gas or liquefied petroleum gas, or the dispensing of electricity.

(c) To be eligible for a rebate under this section, a person or entity shall complete and submit an application for the rebate on the forms prescribed by the office.

(d) The office shall ensure that the following criteria are met before providing a rebate under this section:

(1) The applicant is registered as a business entity in good standing with the Secretary of State;

(2) The dispenser at the compressed natural gas refueling station, liquefied natural gas refueling station, or liquefied petroleum gas refueling station has been inspected and certified by the State Division of Weights and Measures of the Arkansas Bureau of Standards of the State Plant Board or a registered service agency of the division;

(3) The dispenser at the private electric vehicle charging station or public electric vehicle charging station has been inspected and is in compliance with the rules promulgated by the office and any other applicable laws;

(4) The applicant for a rebate on a compressed natural gas refueling station, liquefied natural gas refueling station, or liquefied petroleum gas refueling station meets the siting requirements stated in the National Fire Protection Association's NFPA 52: Vehicular Natural Gas Fuel Systems Code, 2016 Edition; and

(5) The applicant for a rebate on a private electric vehicle charging station or public electric vehicle charging station meets the siting requirements stated in the National Fire Protection Association's NFPA 70: National Electrical Code, 2017 Edition.

History. Acts 2013, No. 532, § 1; 2015, No. 1149, §§ 7, 8; 2017, No. 851, § 9; 2019, No. 910, §§ 3058, 3059.

Amendments. The 2017 amendment redesignated former (a) as present (a)(1) and (a)(1)(A); in present (a)(1), inserted "of the Arkansas Department of Environmen-

tal Quality", substituted "may" for "shall", inserted "private electric vehicle charging station, public electric vehicle charging station", and substituted "that is" for "in an amount equal to"; in present (a)(1)(A), substituted "Not more than seventy-five" for "the lesser of seventy-five" and "not to

exceed four hundred thousand” for “or four hundred thousand”; added (a)(1)(B) and (a)(1)(C); added (a)(2); in the introductory language of (b), substituted “A” for “The” and inserted “any of”; inserted “private electric vehicle charging station, public electric vehicle charging station” in (b)(1) and (b)(2); added “or the dispensing of electricity” in (b)(3); inserted “in good standing” in (d)(1); deleted former (d)(2); redesignated former (d)(3) as present (d)(2); added (d)(3); in (d)(4), inserted “for

a rebate on a compressed natural gas refueling station, liquefied natural gas refueling station, or liquefied petroleum gas refueling station” and substituted “Vehicular Natural Gas Fuel Systems Code, 2016 Edition” for “Vehicular Gaseous Fuel Systems Code, 2013 Edition”; added (d)(5); and made stylistic changes.

The 2019 amendment substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in (a)(1) and (a)(2).

15-10-904. Rebates for qualified alternative motor vehicle property.

(a) The Arkansas Energy Office of the Division of Environmental Quality may offer a rebate for qualified alternative motor vehicle property that is:

(1) Not more than fifty percent (50%) of the cost of the qualified alternative motor vehicle property, not to exceed four thousand five hundred dollars (\$4,500) for each motor vehicle that is powered by hydrogen fuel cell, compressed natural gas, liquefied natural gas, or liquefied petroleum gas; and

(2) Not more than fifty percent (50%) of the cost of the qualified alternative motor vehicle property, not to exceed two thousand five hundred dollars (\$2,500) for each qualified alternative motor vehicle property that is powered by electricity.

(b) The Director of the Division of Environmental Quality may increase the rebate percentages listed under subsection (a) of this section if the increase is designated or authorized by a funding source approved by a federal settlement or state settlement.

History. Acts 2013, No. 532, § 1; 2017, No. 271, § 9; 2017, No. 851, § 10; 2019, No. 910, §§ 3060, 3061.

Amendments. The 2017 amendment by No. 271 inserted “of the Arkansas Department of Environmental Quality” in (a).

The 2017 amendment by No. 851 re-wrote the section.

The 2019 amendment substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in the introductory language of (a) and in (b).

CHAPTER 11

PUBLICITY AND TOURISM

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. STATE PARKS, RECREATION, AND TRAVEL COMMISSION.
3. TOURIST INFORMATION BUREAUS.
4. REGIONAL TOURIST PROMOTION AGENCIES.
5. ARKANSAS TOURISM DEVELOPMENT ACT.
6. KEEP ARKANSAS BEAUTIFUL COMMISSION.
7. WILDLIFE OBSERVATION TRAILS PILOT PROGRAM.
8. ARKANSAS GREAT PLACES PROGRAM.

SUBCHAPTER 1 — GENERAL PROVISIONS**SECTION.****15-11-101. Publicity generally.****15-11-102. Promulgation of rules and procedures.**

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-11-101. Publicity generally.

It shall be the duty of the Secretary of the Department of Parks, Heritage, and Tourism to:

(1) Make available and make use of the materials and information assembled by state agencies and gather additional information and materials concerning the state's resources, its departments and divisions of government, and its institutions;

(2) Make this information available to the newspapers, magazines, and other media of publicity for the preparation of articles and stories favorable to the state, its resources, its institutions, and its departments and divisions of government;

(3) Prepare paid advertisements favorable to the State of Arkansas and, subject to the approval of the State Parks, Recreation, and Travel Commission, expend such state funds as may be made available for this purpose in the publication of advertisements in magazines, newspapers, and traditional and digital media, either directly with advertising media or through the services of a recognized advertising agency on a commission basis regularly allowed by the advertising media;

(4) Assemble and prepare material for the publication of pamphlets, booklets, folders, maps, brochures, and other similar advertising matter concerning the State of Arkansas and contract, subject to the approval of the commission, for the reproduction of advertising matter;

(5) Distribute advertising matter to the general public or to special groups for which it is intended, either by mail or other method; and

(6) Assist and aid the various departments and divisions of state in the preparation and distribution of pamphlets, booklets, folders, etc., when it may be deemed advisable to give publicity to the activities of

any department or division or to inform the public of the activities, rules, or requirements of the state government.

History. Acts 1937, No. 265, § 5; Pope’s Dig., § 12030; A.S.A. 1947, § 9-201; Acts 2019, No. 315, § 1098; 2019, No. 910, § 5624.

Amendments. The 2019 amendment by No. 315 deleted “regulations” following “rules” in (7) [now (6)].

The 2019 amendment by No. 910 substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Direc-

tor of the Department of Parks and Tourism” in the introductory language; deleted (1) and redesignated the remaining subdivisions accordingly; inserted “and divisions” in (1) and (2); substituted “traditional and digital media” for “other periodicals” in (3); and in (6), substituted “departments and divisions” for “department” and inserted “or division”.

15-11-102. Promulgation of rules and procedures.

- (a) The Department of Parks, Heritage, and Tourism is specifically authorized to promulgate its own rules and procedures applying to the purchase of printed material and specialty items for advertising purposes. The Department of Parks, Heritage, and Tourism will take no less than a minimum of three (3) bids in purchasing printing and specialty items. The records pertaining to the bidding procedures, bids, and contract awards will be made a part of the permanent record file of the Department of Parks, Heritage, and Tourism, and copies will be forwarded to the purchasing department of the Department of Finance and Administration.
- (b) The Department of Parks, Heritage, and Tourism is specifically authorized to promulgate its own rules and procedures applying to the professional services of an advertising agency. The Department of Parks, Heritage, and Tourism will take proposals and contract with an advertising agency with the advice of the Legislative Council.

History. Acts 1981, No. 931, §§ 35, 44; A.S.A. 1947, §§ 9-229, 9-230; Acts 2019, No. 910, § 5625.

Amendments. The 2019 amendment substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” throughout the section.

SUBCHAPTER 2 — STATE PARKS, RECREATION, AND TRAVEL COMMISSION

SECTION.	SECTION.
15-11-204. Organization — Meetings.	15-11-210. Award of pistol upon retirement.
15-11-205. Secretary of the Department of Parks, Heritage, and Tourism.	15-11-211. Disposal of railroad track material.
15-11-206. Functions, powers, and duties.	15-11-212. Enforcement of state law — Statewide jurisdiction.
15-11-207. Cooperation with news media representatives.	

A.C.R.C. Notes. Acts 2017, No. 508, § 12, provided: “Legislative intent.
“(a) The Department of Parks and Tourism and the Arkansas Wine Producers Council shall actively seek, on a top priority basis, funds for construction of

the Arkansas Wine Center.

“(b) The Department of Arkansas Heritage shall provide technical and professional support, including without limitation assistance with:

“(1) Architectural design;

“(2) Interior and exterior design;

“(3) Streetscaping and signage design; and

“(4) Curatorial guidance toward the creation of the Arkansas Wine Center.”

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that

these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-11-204. Organization — Meetings.

(a) From time to time, the State Parks, Recreation, and Travel Commission shall select from its membership a chair and a vice chair.

(b) The Secretary of the Department of Parks, Heritage, and Tourism shall be ex officio secretary of the commission but shall have no vote on matters coming before the commission.

(c) The commission shall adopt and may modify rules for the conduct of its business and shall keep a record of its transactions, findings, and determinations. The record shall be public.

(d) Meetings shall be at the call of the Chair of the State Parks, Recreation, and Travel Commission either at his or her own instance or upon the written request of at least seven (7) members.

(e) A quorum shall consist of not fewer than seven (7) members present at any regular or special meeting. A majority affirmative vote of that number shall be necessary for the disposition of any business.

History. Acts 1955, No. 330, § 6; 1973, No. 819, § 1; 1975 (Extended Sess., 1976), No. 1076, § 1; 1979, No. 684, § 1; 1981, No. 638, § 1; 1985, No. 935, § 1; A.S.A. 1947, § 9-207; reen. Acts 1987, No. 868, § 1; 2019, No. 910, § 5626.

Amendments. The 2019 amendment substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Director of the Department of Parks and Tourism provided for in § 15-11-205” in (b).

15-11-205. Secretary of the Department of Parks, Heritage, and Tourism.

(a) The Secretary of the Department of Parks, Heritage, and Tourism shall be charged with the duty of administering the provisions of this subchapter and the rules and orders established thereunder.

(b) The State Parks, Recreation, and Travel Commission, by resolution duly adopted, may delegate to the secretary any of the powers or duties vested in or imposed upon it by this subchapter, and the

delegated powers and duties may be exercised by the secretary in the name of the commission.

(c)(1) The secretary shall employ, upon the recommendation of the commission, a Director of the State Parks Division and a Director of the Tourism Division, and such assistants and other personnel as necessary to properly administer the provisions of this subchapter, with the duties of both the Director of the State Parks Division and the Director of the Tourism Division, and such assistants as appointed to be independent of the other, but the Director of the State Parks Division and the Director of the Tourism Division shall cooperate as necessary for the proper performance of the commission and the Department of Parks, Heritage, and Tourism.

(2) The Director of the Tourism Division, as appointed by the secretary, shall be a person with a background in the travel service industry or editorial experience in news media with a minimum of three (3) years' experience in news media or travel service, with special consideration being given to a background in advertising.

History. Acts 1955, No. 330, § 7; 1969, No. 85, § 3; A.S.A. 1947, § 9-208; Acts 2019, No. 315, § 1099; 2019, No. 910, § 5627.

Amendments. The 2019 amendment by No. 315 deleted "regulations" following "rules" in (a).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of the Department of Parks and Tourism" in the section heading; and rewrote the section.

15-11-206. Functions, powers, and duties.

(a) The State Parks, Recreation, and Travel Commission shall:

(1) Have and be subject to all functions, powers, and duties as by law are conferred and imposed upon it; and

(2) For the purpose of regulating its own procedure and carrying out its functions, have the authority from time to time to make, amend, and enforce all reasonable rules not inconsistent with law which will aid in the performance of any of the functions, powers, or duties conferred or imposed upon it by law.

(b) In addition, it shall be the function, power, and duty of the commission to:

(1) Cooperate with other state agencies, civic organizations, and others similarly interested in preparing, correlating, and distributing information in furtherance of the commission's functions and to furnish or otherwise make such information available, without cost to the recipients, in such manner as the commission shall determine to all who may have an interest therein and, for such purpose, the executive head of each state agency shall furnish such information as shall be requested of him or her by the commission;

(2) Contract and be contracted with;

(3) Purchase, lease, rent, or sell and receive bequests or donations of any real, corporeal, or personal property;

(4) Exploit and promote by all available means the recreational and travel potentialities of the state;

(5) Acquire such land within the state as it may deem necessary or proper to the extension, development, or improvement of the state park system and, when necessary to properly carry out its functions, to acquire any real property by the exercise of its right of eminent domain, this right being vested in the commission;

(6) Require a strict accounting of all business transacted by each concessionaire operating at a state park; and

(7) Take such other action not inconsistent with law as it may deem necessary or desirable to carry out the intent and purposes of this subchapter.

History. Acts 1955, No. 330, §§ 4, 5; 1969, No. 85, § 2; A.S.A. 1947, §§ 9-205, 9-206; Acts 2019, No. 315, § 1100.

Amendments. The 2019 amendment deleted “or regulations” following “rules” in (a)(2).

15-11-207. Cooperation with news media representatives.

(a) The Secretary of the Department of Parks, Heritage, and Tourism and his or her staff shall cooperate with representatives of newspapers, magazines, and radio and television stations but shall not otherwise be identified with any of these enterprises.

(b)(1) All information or publicity originated or developed by the secretary and his or her staff shall be released to all news media at times agreeable to a majority of the representatives thereof who are assigned to the State Capitol Building.

(2) However, upon the request of any such representative or other individual for specific information not theretofore originated and developed for a news release by the secretary or his or her staff, the secretary shall furnish the news release to the individual making the request without regard to the provision of subdivision (b)(1) of this section.

(c) Nothing in this subchapter shall be construed as an abridgement of the freedom of the press or speech nor of the right of the executive head of any state agency to discuss freely with the representatives of the various news media any of the affairs of his or her state agency.

History. Acts 1955, No. 330, § 8; A.S.A. 1947, § 9-209; Acts 2019, No. 910, § 5628.

Amendments. The 2019 amendment substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Di-

rector of the Department of Parks and Tourism” in (a); and substituted “secretary” for “director” in (b)(1) and twice in (b)(2).

15-11-210. Award of pistol upon retirement.

When a commissioned law enforcement officer of the State Parks Division of the Department of Parks, Heritage, and Tourism retires from service in good standing after twenty (20) years of service, in recognition of and appreciation for the service of the retiring officer, the Director of the State Parks Division may award to the officer the pistol carried by the officer at the time of his or her retirement from service.

History. Acts 2005, No. 1375, § 1; deleted “of the Department of Parks and Tourism” following “State Parks Division”
 2019, No. 910, § 5629.
Amendments. The 2019 amendment

15-11-211. Disposal of railroad track material.

(a) The State Parks, Recreation, and Travel Commission and the Department of Parks, Heritage, and Tourism are authorized to dispose of rail and other railroad track material by gift or contract to a regional intermodal facilities authority organized pursuant to the Regional Intermodal Facilities Act, § 14-143-101 et seq., a metropolitan port authority organized pursuant to the Metropolitan Port Authority Act of 1961, § 14-185-101 et seq., or a planning and development district recognized by § 14-166-202.

(b) A regional intermodal facilities authority, a metropolitan port authority, or a planning and development district may receive and acquire the property described in subsection (a) of this section upon such terms and conditions acceptable to it and shall use the property for railroad purposes in accordance with the power and authority conferred by law.

(c) If a regional intermodal facilities authority, a metropolitan port authority, or a planning and development district subsequently sells the property described in subsection (a) of this section, the net proceeds received from disposition of the property, after deduction of all costs and expenses related thereto, shall be remitted to the commission and the department.

History. Acts 2007, No. 679, § 1; 2019, substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (a).
 No. 910, § 5630.
Amendments. The 2019 amendment

15-11-212. Enforcement of state law — Statewide jurisdiction.

A person designated as and employed as a law enforcement officer by the Department of Parks, Heritage, and Tourism shall:

- (1) Be a certified law enforcement officer under § 12-9-101 et seq.; and
- (2) Have statewide law enforcement jurisdiction and authority.

History. Acts 2017, No. 202, § 1; 2019, substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in the introductory language.
 No. 910, § 5631.
Amendments. The 2019 amendment substituted “Department of Parks, Heri-

SUBCHAPTER 3 — TOURIST INFORMATION BUREAUS

SECTION.

- 15-11-301. Creation.
- 15-11-302. Department duties.
- 15-11-303. Commission duties.

SECTION.

- 15-11-305. Cooperation with other state agencies.
- 15-11-306. Authority to lease facilities.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-11-301. Creation.

The Department of Parks, Heritage, and Tourism is authorized and directed to establish, as funds are provided therefor, and to maintain and operate at or near the federal interstate highway points of entry into this state tourist information bureaus to perform the functions and duties as provided by this subchapter.

History. Acts 1965, No. 515, § 1; A.S.A. 1947, § 9-210; Acts 2019, No. 910, § 5632.

Amendments. The 2019 amendment

substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism".

15-11-302. Department duties.

Tourist information bureaus established pursuant to this subchapter shall:

(1) Be open to the public at regular business hours and, during tourist seasons, shall be operated at such other hours as may be determined by the Department of Parks, Heritage, and Tourism;

(2) Be situated at or near federal interstate highway points of entry into this state and be located convenient to access by the motoring public;

(3) Be staffed by persons trained and informed concerning:

- (A) The highways of this state;
- (B) Sites of historical interest and importance;
- (C) State parks and other public and private recreational facilities;
- (D) Annual festivals, fairs, and other events of local, regional, or statewide importance of interest and appeal to tourists;
- (E) The population of the state and the various counties and cities;
- (F) The agricultural and industrial economy of the state;
- (G) The natural and human resources that make the State of Arkansas attractive to industry and tourists; and

(H) Such other information and data concerning this state as may be deemed advisable by the department;

(4) Maintain files, reference books, and sources of information to answer questions and to furnish information to tourists;

(5)(A) Maintain facilities for the display of brochures, circulars, and other literature furnished the department by hotels, motels, restau-

rants, and other business establishments publicizing services for the accommodation and convenience of tourists.

(B) Provided, that the tourist information bureaus shall display the literature for the information and benefit of tourists without favoritism or prejudice to any business establishment; and

(6) Perform such other duties as determined by the department to be in furtherance of the purposes and intent of this subchapter.

History. Acts 1965, No. 515, § 2; A.S.A. substituted "Department of Parks, Heritage, and Tourism" for "Department of
1947, § 9-211; 2019, No. 910, § 5633. Parks and Tourism" in (1).
Amendments. The 2019 amendment

15-11-303. Commission duties.

In furtherance of the purposes of this subchapter, the State Parks, Recreation, and Travel Commission shall:

(1) Encourage the assistance and cooperation of public agencies and private businesses throughout the state in promoting the tourist industry;

(2) Have the authority to accept gifts, grants, and donations of property, both real and personal, to be used in furtherance of the purposes of this subchapter;

(3) Reject for display at any tourist information bureau any brochure, pamphlet, or other literature which is misleading or contains false representations; and

(4) Make reasonable rules and perform such other duties as may be in furtherance of the purposes of this subchapter.

History. Acts 1965, No. 515, § 3; A.S.A. deleted "and regulations" following "rules"
1947, § 9-212; Acts 2019, No. 315, § 1101. in (4).
Amendments. The 2019 amendment

15-11-305. Cooperation with other state agencies.

The State Highway Commission, the Arkansas State Game and Fish Commission, and all other state agencies are requested to cooperate and assist the Department of Parks, Heritage, and Tourism with respect to tourist information bureaus established under the provisions of this subchapter.

History. Acts 1965, No. 515, § 5; A.S.A. substituted "Department of Parks, Heritage, and Tourism" for "Department of
1947, § 9-214; 2019, No. 910, § 5634. Parks and Tourism".
Amendments. The 2019 amendment

15-11-306. Authority to lease facilities.

(a) The Department of Parks, Heritage, and Tourism may lease existing buildings and facilities for operation as tourist information bureaus at or near the major highway points of entry into this state and may pay the necessary cost of maintenance, upkeep, and operation of the leased buildings and facilities.

(b) If it becomes necessary for the department to cease to operate any tourist information bureau in the state as a result of the shortage of funds, the State Parks, Recreation, and Travel Commission shall lease the tourist information bureau facility to a municipality or county in which the tourist information bureau is located or to a nonprofit organization approved by the commission for an annual lease payment of ten dollars (\$10.00) per year to be operated by the lessee in a manner approved by the commission.

History. Acts 1965, No. 174, § 1; 1981, No. 931, § 28; A.S.A. 1947, §§ 9-215, 9-216; Acts 2017, No. 374, § 21; 2019, No. 910, § 5635.

Amendments. The 2017 amendment deleted (a)(2) and (a)(3) and redesignated former (a)(1) as present (a); in (a), substituted “may” for “is authorized to”, substituted “for operation as tourist information bureaus” for “deemed suitable therefor by the department”, deleted “may provide for

the staffing and operation in buildings or facilities of tourist information centers” preceding “and may pay”; and, in (b), substituted “bureau” for “center” twice and “the tourist information bureau” for “it”; and made stylistic changes.

The 2019 amendment substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (a).

SUBCHAPTER 4 — REGIONAL TOURIST PROMOTION AGENCIES

SECTION.

- 15-11-401. Definitions.
- 15-11-402. Formation.
- 15-11-403. Designation.
- 15-11-404. Administrative agency.
- 15-11-405. Grants generally.
- 15-11-406. Grants from Department of Parks, Heritage, and Tourism.

SECTION.

- 15-11-407. Federal funds.
- 15-11-408. Matching state funds — Use, reversion, and reallocation.
- 15-11-409. Investigations and audits.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-11-401. Definitions.

As used in this subchapter:

(1) “Commission” means the State Parks, Recreation, and Travel Commission or the Department of Parks, Heritage, and Tourism or any

successor agency designated by law to promote tourist travel and vacation business in Arkansas;

(2) “Natural planning regions” means the respective counties composing each of the fourteen (14) natural planning regions as defined by the Arkansas Economic Development Council and which are outlined on the records and maps maintained by the council as natural planning regions of this state existing on August 6, 1969;

(3) “Regional tourist promotion agency” means a corporation organized pursuant to the provisions of the Arkansas Nonprofit Corporation Act, § 4-28-201 et seq., or the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq., established for the purposes authorized in this subchapter and which is recognized by the commission or its successor agency as qualifying under the provisions of this subchapter; and

(4) “Tourism division” means the Tourism Division of the Department of Parks, Heritage, and Tourism or its successor agency.

History. Acts 1969, No. 310, § 1; A.S.A. 1947, § 9-221; Acts 1995, No. 1296, § 49; 1997, No. 540, § 38; 2019, No. 910, §§ 5636, 5637.

Amendments. The 2019 amendment substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (1) and (4).

15-11-402. Formation.

(a)(1) Any group of interested citizens and residents of counties composing a natural planning region of this state and who are residents of counties representing not less than fifty percent (50%) of the total population of the region, but in no event fewer than fifteen (15) individuals, who shall form a nonprofit corporation pursuant to the provisions of the Arkansas Nonprofit Corporation Act, §§ 4-28-201 — 4-28-206 and 4-28-209 — 4-28-224, for the purpose of promoting tourist travel and vacation business in the counties composing the natural planning region and whose charters, bylaws, and purposes are in compliance with the rules promulgated by the State Parks, Recreation, and Travel Commission or the Department of Parks, Heritage, and Tourism pursuant to the provisions of this subchapter may apply for recognition by the commission as a regional tourist promotion agency under this subchapter.

(2) However, upon approval of the commission, a county in one (1) natural planning region of the state may be included within the area composing a different and adjacent natural planning region if and when experience establishes that the county tourist values are more closely identified with the other natural planning region.

(b)(1) In addition, any two (2) or more natural planning regions may merge to form a single regional tourist agency to represent the total area of the respective natural planning regions.

(2) However, no more than one (1) nonprofit corporation may be designated as the regional tourist promotion agency for the combined natural planning regions.

History. Acts 1969, No. 310, § 2; A.S.A. 1947, § 9-222; Acts 2019, No. 315, § 1102; 2019, No. 910, § 5638.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (a)(1).

The 2019 amendment by No. 910, in (a)(1), substituted “§§ 4-28-201 – 4-28-206 and 4-28-209 – 4-28-224” for “§ 4-28-201 et seq.” and “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism”.

15-11-403. Designation.

(a) The State Parks, Recreation, and Travel Commission or the Department of Parks, Heritage, and Tourism, upon receipt of a copy of incorporation papers, constitution, bylaws, and resolutions, if any, of a nonprofit corporation applying for recognition as a regional tourist promotion agency under the provisions of this subchapter, is authorized to designate the applying corporation as a regional tourist promotion agency under the provisions of this subchapter, provided that the commission shall determine:

(1) That the applying agency is established under the Arkansas Nonprofit Corporation Act, §§ 4-28-201 — 4-28-206 and 4-28-209 — 4-28-224, and has a constitution and bylaws governing the activities and purposes of the corporation which are in compliance with the rules of the commission established in furtherance of the purposes of this subchapter;

(2) That the charter, constitution, or bylaws of the applying agency provide for the selection of a board of directors and successor members on the boards, of persons who have demonstrated knowledge of and interest in the tourist travel and vacation business in the various counties composing the region to be served by the agency; and

(3) That the applying agency has furnished a proposed plan and demonstration of financial resources to establish and promote an active tourist travel and vacation business promotion program within the region as provided in this subchapter.

(b) Upon determining that an applying corporation is eligible for designation as a regional tourist promotion agency under the provisions of this subchapter, the commission, upon a majority vote of the full membership of the commission, shall designate the agency as the participating regional tourist promotion agency under the provisions of this subchapter for the region and shall certify that fact to the applying agency.

(c) The commission is authorized to revoke its designation of any regional tourist promotion agency or to suspend the regional tourist promotion agency from participation in the provisions of this subchapter whenever the commission shall determine that the regional tourist promotion agency is not complying with this subchapter or with the rules and regulations of the commission or has failed to comply with the terms of any grant made to the regional tourist promotion agency pursuant to the provisions of this subchapter.

History. Acts 1969, No. 310, § 3; A.S.A. 1947, § 9-223; Acts 2019, No. 315, § 1103; 2019, No. 910, § 5639.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (a)(1).

The 2019 amendment by No. 910 substituted “Department of Parks, Heritage,

and Tourism” for “Department of Parks and Tourism” in the introductory language of (a); and substituted “§§ 4-28-201 – 4-28-206 and 4-28-209 – 4-28-224” for “§ 4-28-201 et seq.” in (a)(1).

15-11-404. Administrative agency.

The Tourism Division is designated as the administrative agency of this state to act under the authority of the State Parks, Recreation, and Travel Commission or the Department of Parks, Heritage, and Tourism in administering the provisions of this subchapter.

History. Acts 1969, No. 310, § 7; 1975, No. 281, § 1; A.S.A. 1947, § 9-227; Acts 1995, No. 1296, § 50; 2019, No. 910, § 5640.

Amendments. The 2019 amendment

deleted “of the Department of Parks and Tourism” following “Tourism Division”, and substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism”.

15-11-405. Grants generally.

(a) All grants under the provisions of this subchapter shall be on a matching basis with the applying regional tourist promotion agency furnishing one-third ($\frac{1}{3}$) of the funds and the state grant being two (2) times the amount of the funds supplied by the applying regional tourist promotion agency.

(b) Upon approval of each application and the making of a grant by the State Parks, Recreation, and Travel Commission in accordance therewith, the commission or the Department of Parks, Heritage, and Tourism shall give notice to the applying regional tourist promotion agency of the approval and grant and shall direct the regional tourist promotion agency to proceed with its promotional program as described in its application and to use therefor funds allocated by the regional tourist promotion agency for such purposes.

(c) Upon the furnishing of evidence to the commission that the particular regional tourist promotion agency has proceeded in accordance with the terms of the application, the grant allocated to the regional tourist promotion agency shall be paid to the regional tourist promotion agency by the Tourism Division.

History. Acts 1969, No. 310, § 7; 1975, No. 281, § 1; A.S.A. 1947, § 9-227; Acts 1995, No. 1296, § 50; 2019, No. 910, § 5641.

Amendments. The 2019 amendment substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (b) and (c).

15-11-406. Grants from Department of Parks, Heritage, and Tourism.

(a) Upon approval of the State Parks, Recreation, and Travel Commission, the Department of Parks, Heritage, and Tourism is authorized

to make grants from funds specifically appropriated for such purposes to regional tourist promotion agencies, to assist such regional tourist promotion agencies in the financing of promotional and advertising programs, and to encourage and stimulate tourist travel and vacation business within the natural planning region.

(b) However, before any such grant may be made:

(1)(A) The regional tourist promotion agency shall have made application to the commission or the department for such a grant and shall have set forth therein the promotion and advertising program and project proposed to be undertaken for the purpose of encouraging and stimulating the tourist travel and vacation business within the natural planning region.

(B) The application shall further state, under oath or affirmation, the amount of funds held by or committed or subscribed to the regional tourist promotion agency for application to the purposes described in this section and the amount of the grant for which application is made; and

(2)(A) If after review of the application the commission is satisfied that the program of the regional tourist promotion agency appears to be in accord with the purposes of this subchapter, the commission shall authorize the making of a matching grant to the regional tourist promotion agency equal to the funds of the regional tourist promotion agency allocated by the regional tourist promotion agency to the program described in the application.

(B) However, the state grant shall not exceed an amount equal to the total amount apportioned to the natural planning region as outlined in this subchapter.

History. Acts 1969, No. 310, § 4; 1971, No. 368, § 1; 1973, No. 336, § 1; A.S.A. 1947, § 9-224; Acts 2019, No. 910, § 5642. substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism" in (a).

Amendments. The 2019 amendment

15-11-407. Federal funds.

(a) The State Parks, Recreation, and Travel Commission or the Department of Parks, Heritage, and Tourism is authorized to accept gifts, grants, or donations from the United States Government or agencies thereof, and some private individuals, foundations, or concerns to be used in furtherance of the purposes of this subchapter.

(b)(1) The commission shall annually review the amount of funds appropriated by the General Assembly and other funds that may be available therefor.

(2)(A) The commission shall apportion the funds at the beginning of each fiscal year on an equal basis to the various participating regional tourist promotion agencies or associations recognized by the commission.

(B) However, each natural planning region shall be eligible for at least one thousand dollars (\$1,000) annually but shall not be eligible

for more than twenty percent (20%) of the appropriation made to the commission for the purposes set forth in this subchapter.

History. Acts 1969, No. 310, § 5; 1973, No. 336, § 2; A.S.A. 1947, § 9-225; Acts 2019, No. 910, § 5643. substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (a).

Amendments. The 2019 amendment

15-11-408. Matching state funds — Use, reversion, and reallocation.

(a)(1) The State Parks, Recreation, and Travel Commission shall promulgate reasonable rules regarding the use of matching funds that are available to the respective regional tourist promotion agencies.

(2) The funds available to each regional tourist promotion agency may be used for needed approved tourist promotion and advertising or research programs designed to encourage and stimulate the visitor and vacation business within the natural planning region and for operational and administrative expenses, as may have been approved by the commission or the Department of Parks, Heritage, and Tourism.

(b)(1) Matching funds available for operational and administrative expenses shall be limited to ten percent (10%) of the funds allocated to the regional tourist promotion agency.

(2) It is the intent of this section that no more than ten percent (10%) of the funds made available to a regional tourist promotion agency shall be used for operational or administrative expenses.

(c)(1) After six (6) months, unused state funds allocated to a regional tourist promotion agency shall revert to the commission to be reapportioned on a pro rata basis to participating regional tourist promotion agencies with active programs.

(2) However, no one (1) regional tourist promotion agency shall receive in excess of twenty percent (20%) of the funds appropriated for grants under the provisions of this subchapter.

(d) In the event sufficient regional or local funds cannot be raised to match the state funds appropriated for the matching fund program by January 1 of each year, those state funds not applied for shall revert to the advertising and promotion budget of the Tourism Division.

History. Acts 1969, No. 310, § 6; 1971, No. 368, § 2; 1973, No. 336, § 3; A.S.A. 1947, § 9-226; Acts 1991, No. 283, § 1; 1995, No. 1296, § 50; 2019, No. 315, § 1104; 2019, No. 910, §§ 5644, 5645. The 2019 amendment by No. 910 substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (a)(2); and deleted “of the Department of Parks and Tourism” following “Tourism Division” in (d).

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (a)(1).

15-11-409. Investigations and audits.

The State Parks, Recreation, and Travel Commission or the Tourism Division from time to time may make such investigations and audits

and require each participating regional tourist promotion agency to furnish such evidence or proof to determine that all funds granted under the provisions of this subchapter are being handled and expended for the purposes as approved by the commission or the Department of Parks, Heritage, and Tourism in awarding the grant.

History. Acts 1969, No. 310, § 7; 1975, No. 281, § 1; A.S.A. 1947, § 9-227; Acts 1995, No. 1296, § 50; 2019, No. 910, § 5646.

Amendments. The 2019 amendment deleted “of the Department of Parks and Tourism” following “Tourism Division” and substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism”.

SUBCHAPTER 5 — ARKANSAS TOURISM DEVELOPMENT ACT

SECTION.

- 15-11-503. Definitions.
- 15-11-504. Evaluation standards — Tourism attraction project applications.
- 15-11-505. Standards for preliminary and final approval of companies and projects.
- 15-11-506. Contracts.

SECTION.

- 15-11-507. Tourism attraction project sales tax credit.
- 15-11-509. Tourism attraction project income tax credit.
- 15-11-511. Special rules — Qualified amusement parks — Definition.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-11-503. Definitions.

As used in this subchapter:

- (1) “Agreement” means an agreement entered into pursuant to § 15-11-506 by and between the Director of the Arkansas Economic Development Commission and an approved company with respect to a tourism attraction project;
- (2) “Approved company” means any eligible company that is seeking to undertake a tourism attraction project and is approved by the director pursuant to §§ 15-11-505 and 15-11-506;
- (3) “Approved costs” means:
 - (A) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in

connection with the acquisition, construction, equipping, and installation of a tourism attraction project;

(B) The costs of acquiring real property or rights in real property in connection with a tourism attraction project and any costs incidental thereto;

(C) The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(D) All costs of architectural and engineering services, including, but not limited to, estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;

(E) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;

(F) All costs required for the installation of utilities in connection with a tourism attraction project, including, but not limited to, water, sewer, sewage treatment, gas, electricity, and communications, and including off-site construction of utility extensions paid for by the approved company; and

(G) All other costs comparable with those described in this subdivision (3);

(4) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity that invests a minimum of five hundred thousand dollars (\$500,000) in a high-unemployment county or one million dollars (\$1,000,000) in any other county for the purpose of constructing, operating, or intending to operate a tourism attraction project, whether owned or leased, within the state that meets the standards promulgated by the director pursuant to § 15-11-504;

(5) [Repealed.]

(6) "Final approval" means the action taken by the director authorizing the eligible company to receive inducements under §§ 15-11-507 and 15-11-509;

(7)(A) "High unemployment" means an unemployment rate equal to or in excess of one hundred fifty percent (150%) of the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the Division of Workforce Services when the state's annual average unemployment rate is six percent (6%) or below.

(B) When the state's annual average unemployment rate is above six percent (6%), "high unemployment" means equal to or in excess of three percent (3%) above the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the division;

(8)(A) "Increased state sales tax liability" means that portion of an approved company's reported state sales, that is, gross receipts tax liability resulting from taxable sales of goods and services to its customers at the tourism attraction for any monthly sales tax reporting period after the approved company provides the certification required by § 15-11-507(b), which exceeds that reported state sales tax liability for sales to its customers for the same month in the calendar year immediately preceding that certification.

(B) If an approved company purchases an existing tourism attraction that was selling goods and services at the time of purchase and that may or may not have been entitled to the benefits of this subchapter prior to such a purchase, the "increased state sales tax liability" resulting from any investments in the tourism attraction by the new owners means that portion of the approved company's reported state sales, or gross receipts, tax liability resulting from taxable sales of goods and services to its customers at the tourism attraction for any monthly sales tax reporting period after the approved company provides the certification required by § 15-11-507(b), which exceeds the reported state sales tax liability for sales made by the seller of the tourism attraction for the same month in the calendar year immediately preceding that certification.

(C) The prohibitions against disclosure of confidential tax information provided in § 26-18-303 shall not apply for purposes of computing the credit available under this subchapter;

(9) "Inducements" means the Arkansas sales tax credit as prescribed in § 15-11-507 or the Arkansas income tax credit as prescribed in § 15-11-509, or both;

(10) "Investment threshold" means the minimum amount of approved costs that must be incurred in order to qualify for eligibility;

(11)(A)(i) "New full-time permanent employee" means a position or job which was created as a result of a tourism attraction project and which is filled by one (1) or more employees or contractual employees who were Arkansas taxpayers during the year in which the tax credits or incentives were earned or claimed.

(ii) The employee or employees must work an average of at least thirty (30) hours per week.

(B) However, in order to qualify for the provisions of this subchapter, a contractual employee must be offered a benefits package comparable to a direct employee of the business seeking incentives under this subchapter;

(12) "Payroll" means the total taxable wages, including overtime and bonuses, paid during the preceding tax year of the approved company to new full-time permanent employees hired after the date of the signed financial incentive agreement;

(13)(A) "Tourism attraction" means:

- (i) Cultural or historical sites;
- (ii) Recreational or entertainment facilities;
- (iii) Areas of natural phenomena or scenic beauty;

- (iv) Theme parks;
- (v) Amusement or entertainment parks;
- (vi) Indoor or outdoor plays or music shows;
- (vii) Botanical gardens; and
- (viii) Cultural or educational centers.

(B) "Tourism attraction" does not include:

(i) Lodging facilities, unless the facilities constitute a portion of a tourism attraction project and represent less than sixty percent (60%) of the total approved costs of the tourism attraction project or unless the tourism attraction project meets the special rules outlined in § 15-11-510;

(ii) Facilities that are primarily devoted to the retail sale of goods, unless the goods are created at the site of the tourism attraction project or if the sale of goods is incidental to the tourism attraction project;

(iii) Facilities that are not open to the general public;

(iv) Facilities that do not serve as a likely destination where individuals who are not residents of the state would remain overnight in commercial lodging at or near the tourism attraction project;

(v) Facilities owned by the State of Arkansas or a political subdivision of the state; or

(vi)(a) Facilities established for the purpose of conducting legalized gambling.

(b) However, a facility regulated under the Arkansas Horse Racing Law, § 23-110-101 et seq., or the Arkansas Greyhound Racing Law, § 23-111-101 et seq., shall be a tourism attraction for purposes of this subchapter for any approved tourism attraction project as outlined in subdivision (13)(A) of this section or for an approved tourism attraction project relating to pari-mutuel racing at the facility and not for establishing a casino or for offering casino-style gambling; and

(14) "Tourism attraction project" or "project" means the:

(A) Acquisition, including the acquisition of real estate by leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; and

(B) Construction and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including, but not limited to:

(i) Surveys;

(ii) Installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and

(iii) Off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located,

all of which are to be used to improve the economic situation of the approved company in a manner that will allow the approved company to attract persons.

History. Acts 1997, No. 291, § 3; 1999, No. 1135, § 1; 2001, No. 899, § 1; 2005, No. 2308, § 1; 2019, No. 910, §§ 449-452.

Amendments. The 2019 amendment substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic

Development Commission" in (1); deleted "executive" preceding "director" in (2) and (4); repealed (5); substituted "Division of Workforce Services" for "Department of Workforce Services" in (7)(A); and substituted "division" for "Department of Workforce Services" in (7)(B).

15-11-504. Evaluation standards — Tourism attraction project applications.

(a) The Director of the Arkansas Economic Development Commission shall establish standards for the making of applications for inducements to eligible companies and their tourism attraction projects by the promulgation of administrative rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) With respect to each eligible company making an application to the director for inducements and with respect to the tourism attraction project described in the application, the director shall make inquiries and request materials of the applicant that shall include, but shall not be limited to:

(1) Marketing plans for the tourism attraction project that target individuals who are not residents of the state;

(2) A description and location of the tourism attraction project;

(3) Capital and other anticipated expenditures for the tourism attraction project that indicate that the total cost of the tourism attraction project shall exceed five hundred thousand dollars (\$500,000) in a high-unemployment county and one million dollars (\$1,000,000) in all other counties and the anticipated sources of funding for the tourism attraction project;

(4) The anticipated employment and wages to be paid at the tourism attraction project;

(5) Business plans which indicate the average number of days in a year in which the tourism attraction project will be in operation and open to the public; and

(6) The anticipated revenues and expenses generated by the tourism attraction project.

(c) The Arkansas Economic Development Commission shall analyze the data made available by the eligible company and collect and analyze additional information as is necessary to determine that the tourism attraction project will:

(1) Develop a marketing plan that targets at least twenty-five percent (25%) of its visitors from among persons who are not residents of the state;

(2) Have costs in excess of five hundred thousand dollars (\$500,000) in a high-unemployment county and one million dollars (\$1,000,000) in all other counties;

(3) Have a significant and positive economic impact on the state considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attrac-

tions in the state and the amount by which increased tax revenues from the tourism attraction project will exceed the sales tax credit allowed pursuant to § 15-11-507;

(4) Produce sufficient revenues and public demand to be operating and open to the public on a regular and persistent basis; and

(5) Not adversely affect existing employment in the state.

History. Acts 1997, No. 291, § 4; 1999, No. 1135, § 2; 2005, No. 2308, § 2; 2019, No. 315, § 1105; 2019, No. 910, § 453.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a).

The 2019 amendment by No. 910 substituted “Director of the Arkansas Eco-

nomie Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (a); and deleted “executive” preceding “director” twice in the introductory language of (b).

15-11-505. Standards for preliminary and final approval of companies and projects.

(a) The Director of the Arkansas Economic Development Commission shall establish standards for final approval of eligible companies and their tourism attraction projects by the promulgation of administrative rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) The director shall obtain the review and advice of the Secretary of the Department of Parks, Heritage, and Tourism prior to designating an entity as an approved company eligible for the tourism incentive.

(c) The director may give approval by designating an eligible company as an approved company and authorizing the undertaking of the tourism attraction project.

(d) The director shall review the information that has been made available to the director in order to determine whether the tourism attraction project will further the purposes of this subchapter.

(e) The criteria for final approval of eligible companies and tourism attraction projects shall include, but shall not be limited to, the criteria set forth in § 15-11-504(c).

(f) After a review of the relevant materials, other information made available to the director, the completion of other inquiries, and the review and advice of the Secretary of the Department of Parks, Heritage, and Tourism, the director may give final approval to the eligible company’s application for a tourism attraction project and may grant the approval to the eligible company in the form of a financial incentive agreement.

History. Acts 1997, No. 291, § 5; 1999, No. 1135, § 3; 2005, No. 2308, § 3; 2007, No. 1039, § 1; 2019, No. 315, § 1106; 2019, No. 910, § 454.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a).

The 2019 amendment by No. 910 substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (a), (b), (c), twice in (d), and twice in (f); and substituted “Secretary of the Department of

Parks, Heritage, and Tourism” for “Director of the Department of Parks and Tourism” in (b) and (f).

15-11-506. Contracts.

(a) Upon granting final approval, the Director of the Arkansas Economic Development Commission may enter into an agreement with an approved company with respect to its tourism attraction project.

(b) The terms and provisions of each agreement shall include, but shall not be limited to:

(1) The amount of approved costs, which shall be determined by negotiations between the director and the approved company;

(2)(A)(i) The eligibility date for incurring tourism attraction project costs.

(ii) The eligibility date shall be the date by which the approved company shall have completed the tourism attraction project.

(B) Within three (3) months of the completion date, the approved company shall document the actual cost of the tourism attraction project through a certification of such costs by an independent certified public accountant acceptable to the director; and

(3) The following provisions:

(A)(i) The term shall be ten (10) years from the later of:

(a) The date of the final approval of the tourism attraction project; or

(b) The completion date specified in the agreement, if the completion date is within two (2) years of the date of the final approval of the tourism attraction project.

(ii) However, the term of the agreement may be extended for up to two (2) additional years by the director with the advice and consent of the Secretary of the Department of Finance and Administration, if the director determines that:

(a) The failure to complete the tourism attraction project within two (2) years resulted from unanticipated and unavoidable delay in the construction of the tourism attraction project;

(b) The tourism attraction project as originally planned will require more than two (2) years to complete; or

(c) The failure to complete the tourism attraction project within two (2) years resulted from a merger, acquisition, or other change in business ownership or business structure;

(B) In any sales tax reporting period during which an agreement is in effect, if the increased state sales tax liability of the approved company exceeds the state sales tax credit available to the approved company, then the approved company shall pay the excess to the state as sales tax;

(C) Within forty-five (45) days after the end of each calendar year, the approved company shall supply the director with such reports and certifications as the director may request, demonstrating to the satisfaction of the director that the approved company is in compliance with the provisions of this subchapter; and

(D) The approved company shall not receive a credit against the Arkansas sales tax imposed by § 26-52-301 et seq., with respect to any calendar year if in any calendar year following the first year of the agreement the tourism attraction project is not operating and open to the public on a regular and persistent basis.

(c) The agreement shall not be transferable or assignable by the approved company without the written consent of the director.

(d) If the approved company utilizes sales tax credits which are subsequently disallowed, then the approved company will be liable for the payment to the secretary of all taxes resulting from the disallowance of the credits, plus applicable penalties and interest.

(e) The director shall provide a copy of each agreement entered into with an approved company to the secretary.

History. Acts 1997, No. 291, § 6; 2001, No. 899, § 2; 2005, No. 2308, § 4; 2007, No. 827, § 136; Acts 2019, No. 910, §§ 455-460.

Amendments. The 2019 amendment substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (a) and (c); substituted "director" for "Executive Di-

rector of the Arkansas Economic Development Commission" in (b)(1), (b)(2)(B), twice in the introductory language of (b)(3)(A)(ii), three times in (b)(3)(C), and in (e); and substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in the introductory language of (b)(3)(A)(ii), and in (d) and (e).

15-11-507. Tourism attraction project sales tax credit.

(a) Upon receiving notification from the Director of the Arkansas Economic Development Commission that an approved company has entered into a tourism attraction project agreement and is entitled to the sales tax credits provided by this subchapter, the Secretary of the Department of Finance and Administration shall provide the approved company with such forms and instructions as are necessary to claim those credits.

(b)(1)(A)(i)(a) An approved company shall be entitled to a credit if the approved company certifies to the Secretary of the Department of Finance and Administration that it has expended at least five hundred thousand dollars (\$500,000) in a high-unemployment county and one million dollars (\$1,000,000) in all other counties in approved costs and the director certifies that the approved company is in compliance with this subchapter.

(b)(1) The Secretary of the Department of Finance and Administration shall then issue a sales tax credit memorandum to the approved company equal to fifteen percent (15%) of the approved costs.

(2) However, in high-unemployment counties the Secretary of the Department of Finance and Administration shall issue a credit memorandum to the approved company equal to twenty-five percent (25%) of the approved costs.

(c) The sales tax credit memorandum shall not include an offset of the tourism tax levied under § 26-63-401 et seq.

(ii) Subsequent requests for credit for additional certified approved costs shall be filed with the Department of Finance and Administration during the term of the agreement.

(B)(i) The Secretary of the Department of Finance and Administration may require proof of expenditures.

(ii) Additional credit memoranda may be issued as the approved company certifies additional expenditures of approved costs.

(2)(A) No sales tax credit memorandum shall be issued for any approved costs expended after the expiration of two (2) years from the date the agreement was signed by the director and the approved company.

(B) However, the director, with the advice and consent of the Secretary of the Department of Finance and Administration, may authorize sales tax credits for approved costs expended up to four (4) years from the date the agreement was signed if the director determines that the failure to complete the tourism attraction project within two (2) years resulted from:

(i) Unanticipated and unavoidable delay in the construction of the tourism attraction project;

(ii) The tourism attraction project, as originally planned, will require more than two (2) years to complete; or

(iii) A change in business ownership or business structure resulting from a merger or acquisition.

(c) The credit memorandum issued pursuant to subsection (b) of this section may be used to offset a portion of the reported state sales, or gross receipts, tax liability of the approved company for all sales tax reporting periods following the issuance of the credit memorandum, subject to the following limitations:

(1) Only increased state sales tax liability as defined in this subchapter may be offset by the issued credit;

(2)(A) An approved company whose agreement provides that it shall expend approved costs in excess of five hundred thousand dollars (\$500,000) in a high-unemployment county and one million dollars (\$1,000,000) in all other counties shall be entitled to use one hundred percent (100%) of the issued credit to offset increased state sales tax liability during the first year if its tax liability is equal to or greater than the amount issued in the state sales tax credit memorandum.

(B) Unused credits may be carried forward for a period of nine (9) years;

(3) All issued credit memoranda shall expire at the end of the month following the expiration of the agreement as provided in § 15-11-506; and

(4) Except as provided in § 15-11-511, credit memoranda shall not be used to offset any tax other than state sales tax.

(d) The approved company shall have no obligation to refund or otherwise return any amount of this credit to the person from whom the sales tax was collected.

(e) By April 1 of each year, the Secretary of the Department of Finance and Administration shall certify to the director the state sales

tax liability of the approved companies receiving inducements under this section and the amount of state sales tax credits taken during the preceding calendar year.

(f)(1) The Secretary of the Department of Finance and Administration may promulgate administrative rules as are necessary for the proper administration of this subchapter.

(2) The Secretary of the Department of Finance and Administration may also develop such forms and instructions as are necessary for an approved company to claim the sales tax credit provided by this subchapter.

(g)(1) The Secretary of the Department of Finance and Administration shall have the authority to obtain any information necessary from the approved company and the director to verify that approved companies have received the proper amounts of sales tax credits as authorized by this subchapter.

(2) The Secretary of the Department of Finance and Administration shall demand the repayment of any credits taken in excess of the credit allowed by this subchapter.

History. Acts 1997, No. 291, § 7; 1999, No. 1135, § 4; 1999, No. 1510, § 1; 2005, No. 1962, § 64; 2005, No. 2308, § 5; 2007, No. 182, § 13; 2019, No. 315, § 1107; 2019, No. 910, §§ 461, 462, 3407.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (f)(1).

The 2019 amendment by No. 910 substituted “Director of the Arkansas Economic Development Commission” for “Ex-

ecutive Director of the Arkansas Economic Development Commission” in (a); substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration” throughout the section; and substituted “director” for “Executive Director of the Arkansas Economic Development Commission” throughout the section.

15-11-509. Tourism attraction project income tax credit.

(a) Tourism attraction projects meeting the eligibility requirements under § 15-11-503(13)(A) are entitled to receive an income tax credit based upon a percentage of the payroll of the new full-time permanent employees working at the tourism attraction project.

(b) Upon notification from the Director of the Arkansas Economic Development Commission that an approved company has entered into a tourism attraction project agreement and is entitled to the income tax credit provided by this section, the Secretary of the Department of Finance and Administration shall provide the approved company with such forms and instructions as are necessary to claim those credits.

(c)(1) The approved company shall certify the number and payroll of the new full-time permanent employees to the Revenue Division of the Department of Finance and Administration.

(2) Upon certification by the approved company, the Department of Finance and Administration shall authorize an income tax credit equal to four percent (4%) of the payroll of the new full-time permanent employees of the approved tourism attraction project qualifying for benefits under this act.

(d) To be counted as a net new full-time permanent employee for the purpose of qualifying for the tax credits provided by this section, the employee in the position or job must have been an Arkansas taxpayer during the year in which the tax credits were earned.

(e) In the event it is found that any approved company receiving the benefits contained in this section has failed to comply with the conditions contained in this act, that approved company shall be disqualified from receiving any further benefits under this act and shall be liable for payment of such additional income taxes as may be due after the income tax credits provided for in this section are disallowed, plus interest.

(f) If the department determines that an approved company is no longer qualified to participate in this act, the department shall decertify the approved company. Any approved company so decertified shall not receive any benefits under this act.

(g) For tourism attraction projects receiving final approval after March 1, 1999, the credit may be applied against the approved company's income tax liability for the succeeding nine (9) years or until the credit is entirely used, whichever occurs first.

History. Acts 1999, No. 1135, § 5; 2001, No. 899, § 3; 2005, No. 2308, § 6; 2019, No. 910, § 463.

Amendments. The 2019 amendment substituted "Director of the Arkansas Economic Development Commission" for "Ex-

ecutive Director of the Arkansas Economic Development Commission" and "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (b).

15-11-511. Special rules — Qualified amusement parks — Definition.

(a) As used in this section, "qualified amusement park" means a commercial recreational activity that:

(1) Operates at least three (3) consecutive months during a calendar year;

(2) Offers rides, shows, games, and other diversions;

(3) Otherwise qualifies as an approved company under § 15-11-503(2);

(4) Operates within a designated area of not less than one hundred (100) acres; and

(5) Has annual gross receipts from paid admissions of at least four million dollars (\$4,000,000) during a calendar year.

(b)(1) A qualified amusement park may claim the sales tax credit provided in § 15-11-507 against its liability for:

(A) Gross receipts tax levied under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.; and

(B) Tourism gross receipts tax levied under § 26-63-401 et seq.

(2) A qualified amusement park may not claim the sales tax credit against any other taxes collected by the state other than as provided in this section.

(3) An approved company other than a qualified amusement park may only claim the sales tax credit provided in § 15-11-507 against the gross receipts tax levied under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.

(4) The sales tax credit provided in this section to a qualified amusement park may be carried forward and used in the same manner as provided in § 15-11-507(c).

(c) A qualified amusement park entitled to any unused sales tax credits on March 1, 2005, may use the sales tax credits to offset its liability for:

(1) Gross receipts tax levied under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., for the remaining carry-forward period as provided in § 15-11-507(c) and calculated from the date of original issuance of the sales tax credit memorandum; and

(2)(A) Tourism gross receipts tax levied under § 26-63-401 et seq. for a period of ten (10) years beginning on March 1, 2005.

(B) At the end of the ten-year period, the qualified amusement park shall not be allowed to use any unused credits against tourism gross receipts tax levied under § 26-63-401 et seq.

(d)(1) Notwithstanding the other provisions of this subchapter, a qualified amusement park that on or after January 1, 2006, enters into an agreement that provides that the qualified amusement park shall expend approved costs of more than one million dollars (\$1,000,000) shall be entitled to a sales tax credit if the qualified amusement park certifies to the Secretary of the Department of Finance and Administration that it has expended at least one million dollars (\$1,000,000) in approved costs and the Director of the Arkansas Economic Development Commission certifies that the qualified amusement park is in compliance with this subchapter.

(2) The secretary shall then issue a sales tax credit memorandum to the qualified amusement park equal to twenty-five percent (25%) of the approved costs. The sales tax credit memorandum may be used to offset the liability of the qualified amusement park for:

(A) Gross receipts tax levied under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq.; and

(B) Tourism gross receipts tax levied under § 26-52-1001 et seq. [repealed].

(3) The secretary may require proof of expenditures.

(4) Additional credit memoranda may be issued as the qualified amusement park certifies additional expenditures of approved costs.

(5)(A) No sales tax credit memorandum shall be issued for any approved costs expended after the expiration of two (2) years from the date the agreement was signed by the director and the qualified amusement park.

(B) However, the secretary, with the advice and consent of the director, may authorize sales tax credits for approved costs expended up to four (4) years from the date the agreement was signed if the director determines that the failure to complete the tourism attraction project within two (2) years resulted from:

(i) Unanticipated and unavoidable delay in the construction of the tourism attraction project;

(ii) The tourism attraction project, as originally planned, will require more than two (2) years to complete; or

(iii) A change in business ownership or business structure resulting from a merger or an acquisition.

(6) The credit memorandum issued pursuant to subdivision (d)(2) of this section may be used to offset one hundred percent (100%) of the reported state tax liability as provided in subdivision (d)(2) of this section of the qualified amusement park for all sales tax reporting periods following the issuance of the credit memorandum, subject to the following limitations:

(A) Unused credits may be carried forward for a period of nine (9) years; and

(B) All issued credit memoranda shall expire at the end of the month following the expiration of the agreement as provided in § 15-11-506.

(7) The approved company shall have no obligation to refund or otherwise return any amount of this credit to the person from whom the sales tax was collected.

(8) By April 1 of each year, the secretary shall certify to the director the state sales tax liability of the qualified amusement parks receiving inducements under this section and the amount of state sales tax credits taken during the preceding calendar year.

History. Acts 2005, No. 241, § 2; 2007, No. 182, § 14; 2007, No. 1039, §§ 3, 4; 2019, No. 910, §§ 464-466.

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" throughout the section;

substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (d)(1); and substituted "director" for "Executive Director of the Arkansas Economic Development Commission" throughout (d).

SUBCHAPTER 6 — KEEP ARKANSAS BEAUTIFUL COMMISSION

SECTION.

15-11-602. Administration office — Director — Duties.

15-11-603. Powers and duties of commission.

SECTION.

15-11-604. [Repealed.]

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and

operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the

fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through

6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-11-602. Administration office — Director — Duties.

(a) The Administrative Office of the Keep Arkansas Beautiful Commission shall be located within the Department of Parks, Heritage, and Tourism.

(b) The Director of the Administrative Office of the Keep Arkansas Beautiful Commission shall be employed by the Secretary of the Department of Parks, Heritage, and Tourism.

(c) The director shall develop and administer all programs and projects of the Keep Arkansas Beautiful Commission and perform such other duties that the secretary deems necessary and appropriate to foster and promote the awareness of all Arkansans as to the need to protect Arkansas’s natural environment.

History. Acts 1997, No. 1278, § 2; 2019, No. 910, § 5647.

Amendments. The 2019 amendment substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (a); substituted

“employed by” for “appointed by and serve at the pleasure of” in (b); and substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Director of the Department of Parks and Tourism” in (b) and (c).

15-11-603. Powers and duties of commission.

The Keep Arkansas Beautiful Commission shall:

(1) Be an official agency of the State of Arkansas authorized to accept and receive grants, moneys, equipment, material, and services and real and personal property donated, bequeathed, or devised for any purposes relating to the programs of the commission and not expressly designated for any other agency and to disburse and utilize such moneys and property for the purposes of this subchapter;

(2) Implement a statewide litter prevention program through the voluntary action of local communities and state and local governmental agencies;

(3) Educate Arkansas’s citizens and community leaders as to the problem of litter and the need for recycling the state’s resources;

(4) Encourage litter prevention;

(5) Encourage beautification projects;

(6) Increase awareness of litter law enforcement;

(7) Promote consumer awareness of recycling benefits;

(8) Assist communities in establishing the Keep Arkansas Beautiful system;

(9) Encourage educational programs in schools and elsewhere that support the goals of the commission;

(10) Serve in an advisory capacity to the Director of the Administrative Office of the Keep Arkansas Beautiful Commission and the Secretary of the Department of Parks, Heritage, and Tourism; and

(11) Cooperate with and support existing recycling, beautification, and litter control programs in the state.

History. Acts 1997, No. 1278, § 3; 2019, No. 910, § 5648.

Amendments. The 2019 amendment substituted “Secretary of the Department

of Parks, Heritage, and Tourism” for “Director of the Department of Parks and Tourism” in (10).

15-11-604. [Repealed.]

Publisher’s Notes. This section, concerning the transfer of powers and duties, was repealed by Acts 2017, No. 374, § 22.

The section was derived from Acts 1997, No. 1278, § 4.

SUBCHAPTER 7 — WILDLIFE OBSERVATION TRAILS PILOT PROGRAM

SECTION.

15-11-702. Findings.

15-11-704. The Wildlife Observation Trails Pilot Program.

15-11-705. Wildlife Observation Trails — Development.

15-11-706. Wildlife Observation Trails Pilot Program Advisory Board — Created.

SECTION.

15-11-707. Funding.

15-11-708. Grant distribution.

15-11-709. Reporting.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-11-702. Findings.

The General Assembly finds that:

(1) Arkansas is a state of natural cultural and scenic beauty, natural resources, and wildlife;

(2) Enjoyment of the natural cultural and scenic beauty, the natural resources, and the observation of wildlife in Arkansas is a favorite pastime of many;

(3) There will be a positive impact on the physical, intellectual, and emotional development of our youth through enhanced access to the state's natural resources and wildlife by establishing wildlife observation trails in local communities;

(4) The potential for growth in the tourism sector of the economy through the development of wildlife observation trails is significant;

(5) The growth of the economy through the development of wildlife observation trails is "green growth" that is good for the environment;

(6) The development of wildlife observation trails is also good for encouraging and promoting a healthy lifestyle for our citizens;

(7) Wildlife observation trails rank high among the list of local amenities that an industry desires when it considers locating within the state;

(8) In permitted hunting and fishing areas of the state, the creation of wildlife observation trails can improve access to those activities; and

(9) The Department of Parks, Heritage, and Tourism and the Arkansas State Game and Fish Commission are interested in continuing a Wildlife Observation Trails Pilot Program to ignite interest in the natural cultural and scenic beauty and natural resources of Arkansas and to promote economic development in a healthy and environmentally sound manner.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 2; 2019, No. 910, § 5649. substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism" in (9).

Amendments. The 2019 amendment

15-11-704. The Wildlife Observation Trails Pilot Program.

(a) There is continued a program to be known as the "Wildlife Observation Trails Pilot Program".

(b) The program shall be developed, implemented, and administered by the Department of Parks, Heritage, and Tourism with the assistance of the Arkansas State Game and Fish Commission.

(c) The purpose of the program is to:

(1) Increase public awareness of the conservation of wildlife and other natural resources;

(2) Utilize the natural beauty, natural resources, and wildlife in the landscape of Arkansas in a positive, healthful manner;

(3) Attract tourism and the tourism industry through the enjoyment and utilization of the wildlife observation trails; and

(4) Promote harmonious interaction between communities and industry and the natural environment.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 3; 2019, No. 910, § 5650. substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism" in (b).

Amendments. The 2019 amendment

15-11-705. Wildlife Observation Trails — Development.

(a) To accept a wildlife observation trail into the Wildlife Observation Trails Pilot Program and be eligible to receive grant moneys under this subchapter, the Department of Parks, Heritage, and Tourism shall require that the wildlife observation trail:

(1) Meet the criteria established by the department after consultation with the Wildlife Observation Trails Pilot Program Advisory Board of the Department of Parks, Heritage, and Tourism. The criteria shall include without limitation:

(A) A right-of-way or easement for public use for a minimum period of ten (10) years;

(B) Trail operation and maintenance by a responsible organization for a minimum period of ten (10) years;

(C) Adherence to state trails standards and guidelines for the trail type designated;

(D) Location and design of the wildlife observation trail so that it is optimally attractive for wildlife observation;

(E) Readiness of the wildlife observation trail for public use; and

(F) Proper marking and signing;

(2) Conform to goals established in the Statewide Comprehensive Outdoor Recreation Plan or the Arkansas Trails Plan; and

(3) Promote tourism and economic development.

(b) When designating the grant recipients that are eligible for moneys under this subchapter, the department shall give more consideration to the location and design of a wildlife observation trail that:

(1) Is assessed to be a tourism attraction;

(2) Promotes economic development;

(3) Is designed to have particular appeal to youths for optimal wildlife observation; and

(4) Is designed to provide access for hunting or fishing activities.

History. Acts 2009, No. 686, § 1; 2019, No. 910, §§ 5651, 5652.

Amendments. The 2019 amendment substituted “Department of Parks, Heritage, and Tourism” for “Department of

Parks and Tourism” in the introductory language of (a); and substituted “shall include” for “includes” in the introductory language of (a)(1).

15-11-706. Wildlife Observation Trails Pilot Program Advisory Board — Created.

(a)(1) There is continued an advisory body to the Department of Parks, Heritage, and Tourism to be known as the “Wildlife Observation Trails Pilot Program Advisory Board” to provide recommendations to the Secretary of the Department of Parks, Heritage, and Tourism and the Arkansas State Game and Fish Commission to develop criteria to establish and fund the development and maintenance of wildlife observation trails through the distribution of grant moneys under this subchapter.

(2) The board is a voluntary board that consists of seven (7) members that are appointed by the secretary as follows:

(A) One (1) representative of the Arkansas Economic Development Commission;

(B) One (1) representative of the Arkansas State Game and Fish Commission;

(C) One (1) representative of the Arkansas Recreation and Parks Association;

(D) One (1) representative of the Association of Arkansas Counties;

(E) One (1) representative of the Arkansas Game and Fish Foundation;

(F) One (1) representative of the Arkansas Audubon Society, Inc.; and

(G) One (1) representative of the Arkansas Municipal League.

(b) The secretary shall:

(1) Assist the board in establishing criteria consistent with § 15-11-705 by the promulgation of rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., for recommendation of a grant for the development of a wildlife observation trail in the Wildlife Observation Trails Pilot Program; and

(2) Seek recommendations from the board for the selection of a grant recipient.

(c) The secretary shall consult with the Director of the Arkansas State Game and Fish Commission to establish criteria for the development and maintenance of wildlife observation trails in the wildlife management areas that are managed by the Arkansas State Game and Fish Commission.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 4; 2019, No. 910, § 5653.

Amendments. The 2019 amendment substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Di-

rector of the Department of Parks and Tourism" throughout the section; and, in (a)(1), substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism".

15-11-707. Funding.

(a)(1) The Arkansas State Game and Fish Commission agrees to make available an amount not to exceed one million dollars (\$1,000,000) for fiscal year 2011-2012 for the Wildlife Observation Trails Pilot Program for the development of wildlife observation trails under this subchapter from moneys that the commission has received from oil and gas leases in the Fayetteville Shale.

(2) The General Assembly recognizes that the agreement under subdivision (a)(1) of this section does not constitute:

(A) A mandate by the General Assembly;

(B) An appropriation of funds by the General Assembly; or

(C) A waiver or relinquishment by the commission of the authority vested in the commission under Arkansas Constitution, Amendment 35.

(3) Before moneys are distributed under this section, the commission shall retain the right to approve or disapprove the release of moneys.

(4) Future funding for the program is subject to the review under subdivisions (b)(2) and (3) of this section and shall be determined by and distributed from the availability of royalties from oil and gas leases in the Fayetteville Shale that the commission receives or from money from other sources.

(b)(1) The Department of Parks, Heritage, and Tourism and the commission agree to execute a memorandum of understanding to delineate each party's participation, obligation, and cooperation in the program sufficient to fulfill the requirements of this subchapter.

(2) The subjects agree to review the memorandum of understanding under subdivision (b)(1) of this section every two (2) years to evaluate the effectiveness and success of the program and to reexamine the need for moneys to be made available to the grant recipients to fund the development and maintenance of wildlife observation trails.

(3) If both the commission and the department agree that the program meets or exceeds the purpose of the legislation or agree that to discontinue the program would result in an undue disruption of progress, then the parties shall reexecute a memorandum of understanding under subdivision (b)(1) of this section.

(c) An agreement for funding in a memorandum of understanding under subdivision (b)(1) of this section and a distribution of money under this section requires the final approval of the commission.

(d) The maximum grant amount for a single project funded under the program is one hundred thousand dollars (\$100,000) per year.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 5; 2019, No. 910, § 5654. substituted "Department of Parks, Heritage, and Tourism" for "Department of

Amendments. The 2019 amendment Parks and Tourism" in (b)(1).

15-11-708. Grant distribution.

(a)(1) A grant application under this subchapter that meets the criteria under § 15-11-705 shall be submitted to the Wildlife Observation Trails Pilot Program Advisory Board by the Secretary of the Department of Parks, Heritage, and Tourism for review and comment.

(2) The board shall recommend grants for approval by the secretary.

(3) The secretary shall designate the grant recipients that are eligible for moneys under this subchapter and notify the Arkansas State Game and Fish Commission of the grant recipients.

(b) The commission agrees to receive grant designations submitted by the secretary and approve distribution of moneys annually to eligible grant recipients in the Wildlife Observation Trails Pilot Program as follows:

(1) A maximum of eighty percent (80%) of the moneys for grants for wildlife observation trail development to cities or counties; and

(2) A maximum of twenty percent (20%) of the moneys for grants for wildlife observation trail development to state agencies or nonprofit organizations.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 6; 2019, No. 910, § 5655.

Amendments. The 2019 amendment substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Di-

rector of the Department of Parks and Tourism” in (a)(1); and substituted “secretary” for “director” in (a)(2), (a)(3), and the introductory language of (b).

15-11-709. Reporting.

- (a) The Arkansas State Game and Fish Commission and the Department of Parks, Heritage, and Tourism shall report the status of the Wildlife Observation Trails Pilot Program biannually to the Game and Fish/State Police Subcommittee of the Legislative Council and the Parks and Tourism Subcommittee of the Joint Budget Committee.
- (b) The report shall address and evaluate whether or not the program as provided in this subchapter has been successful in creating new wildlife observation trails and stimulating economic growth.

History. Acts 2009, No. 686, § 1; 2011, No. 1041, § 6; 2019, No. 910, § 5656.

Amendments. The 2019 amendment

substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (a).

SUBCHAPTER 8 — ARKANSAS GREAT PLACES PROGRAM

- SECTION.

15-11-802. Arkansas Great Places Program — Creation.

15-11-803. Eligibility for Arkansas Great Places Program — Definition.
- SECTION.

15-11-804. Selection for Arkansas Great Places Program.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodedified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-11-802. Arkansas Great Places Program — Creation.

- (a) The Department of Parks, Heritage, and Tourism shall administer and establish the Arkansas Great Places Program to:

(1) Provide planning and financial assistance to eligible organizations for community development; and

(2) Combine resources of state government in an effort to showcase the unique and authentic qualities of communities, regions, neighborhoods, and districts that make those locations exceptional places to work and live.

(b) The Arkansas Economic Development Commission shall provide assistance to the Department of Parks, Heritage, and Tourism in administering and establishing the program.

History. Acts 2011, No. 896, § 1; Acts 2019, No. 910, § 5657.

Amendments. The 2019 amendment substituted “Department of Parks, Heritage, and Tourism” for “Department of

Arkansas Heritage” in the introductory language of (a) and in (b); and deleted “and the Department of Parks and Tourism” following “Arkansas Economic Development Commission” in (b).

15-11-803. Eligibility for Arkansas Great Places Program — Definition.

(a) As used in this subchapter, “eligible organization” means:

- (1) A county;
- (2) A municipality or incorporated town; or
- (3) A nonprofit organization.

(b)(1) An eligible organization may apply to the Department of Parks, Heritage, and Tourism for participation in the Arkansas Great Places Program.

(2) The department shall forward applications for participation in the program to the Arkansas Natural and Cultural Heritage Advisory Committee to select applicants for participation in the program.

(c) An application for participation in the program shall be for a project that will:

- (1) Stimulate economic growth;
- (2) Enhance local community development efforts;
- (3) Foster creative economies;
- (4) Enhance the quality of life in the community where the eligible organization is located;
- (5) Promote awareness and enjoyment of the natural and cultural heritage of Arkansas; or
- (6) Foster cooperative efforts among organizations, businesses, and government.

(d) The committee shall not approve an application for participation in the program if the application would:

- (1) Fund academic research;
- (2) Be awarded to a for-profit organization or event;
- (3) Fund programs or projects that disregard the need to preserve, protect, or conserve historical sites, structures, artifacts, and the environment; or
- (4) Be outside accepted professional museum or environmental standards.

(e)(1) An application for participation in the program shall indicate the amount of funds the eligible organization wishes to receive.

(2)(A) Except as provided in subdivision (e)(2)(B) of this section, as a condition of participating in the program, an eligible organization shall pledge matching funds from nongovernmental sources in the following amounts:

(i) An eligible organization located in a county with a population of less than twenty thousand (20,000) residents shall pledge at least ten percent (10%) of the total amount of funding requested from the Arkansas Great Places Program Fund, § 19-5-1245;

(ii) An eligible organization located in a county with a population of at least twenty thousand (20,000) but less than fifty thousand (50,000) residents shall pledge at least twenty percent (20%) of the total amount of funding requested from the fund; and

(iii) An eligible organization located in a county with a population of fifty thousand (50,000) or more residents shall pledge at least thirty percent (30%) of the total amount of funding requested from the fund.

(B) When selecting an applicant for participation in the program, the committee may specify an amount of matching funds to be pledged by an eligible organization in lieu of the amounts under subdivision (e)(2)(A) of this section.

(f) The department shall promulgate rules necessary to implement the program, including without limitation rules containing:

(1) The procedure to apply for participation in the program; and

(2) The criteria to be used by the committee when determining whether to award a grant.

(g)(1) The department may make investigations and audits of an eligible organization participating in the program to determine that all funds granted under this subchapter are handled and expended for the purposes as approved by the department in awarding the funds.

(2) During an investigation or audit, an eligible organization shall provide any information requested by the department to ensure that funds were handled and expended properly by the eligible organization.

(h)(1) The awarding of funds under this subchapter is contingent on the appropriation and availability of funding for the program.

(2) The department shall not solicit or accept applications for the program if funds for the program are not available.

History. Acts 2011, No. 896, § 1; 2019, No. 910, § 5658.

substituted "Department of Parks, Heritage, and Tourism" for "Department of Arkansas Heritage" in (b)(1).

Amendments. The 2019 amendment

15-11-804. Selection for Arkansas Great Places Program.

(a)(1)(A) The Arkansas Natural and Cultural Heritage Advisory Committee shall select four (4) eligible organizations for participation in the Arkansas Great Places Program by July 1, 2012.

(B) An eligible organization selected for participation in the program under subdivision (a)(1)(A) of this section shall participate in the program for a two-year period.

(C) The committee shall select an eligible organization under subdivision (a)(1)(A) of this section from each of the four (4) congressional districts.

(D) Two (2) of the four (4) eligible organizations selected under subdivision (a)(1)(A) of this section shall be located in counties of twenty thousand (20,000) residents or fewer.

(2)(A) After July 1, 2012, the committee shall select by July 1 of each even-numbered year no more than four (4) eligible organizations for participation in the program.

(B) An eligible organization selected for participation in the program under subdivision (a)(2)(A) of this section shall participate in the program for a two-year period.

(b) A member of the committee shall recuse from the consideration of an application for participation in the program by an eligible organization located in the county in which the member of the committee resides.

(c) The Department of Parks, Heritage, and Tourism shall work with the Arkansas Economic Development Commission to maximize grants awarded to participants in the program.

(d)(1) When considering an application for a grant or other state funds, a state agency shall give additional consideration or additional points in the application of rating or evaluation criteria to an eligible organization that is a participant in the program.

(2) Subdivision (d)(1) of this section applies to applications filed within three (3) years of the eligible organization's selection as a participant in the program.

History. Acts 2011, No. 896, § 1; 2019, No. 910, § 5659.

substituted "Department of Parks, Heritage, and Tourism" for "Department of Arkansas Heritage" in (c).

Amendments. The 2019 amendment

CHAPTER 12

ARKANSAS NATURAL AND CULTURAL RESOURCES COUNCIL

SECTION.

15-12-101. Creation — Members — Meetings.

SECTION.

15-12-103. Disposition of revenues — Grants.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-12-101. Creation — Members — Meetings.

(a) There is established the Arkansas Natural and Cultural Resources Council, which shall consist of eleven (11) voting members as follows:

(1) The Secretary of the Department of Parks, Heritage, and Tourism or his or her designee;

(2) The Director of the Division of Arkansas Heritage or his or her designee;

(3) The Chair of the State Parks, Recreation, and Travel Commission or his or her designee;

(4) The Chair of the Arkansas Natural Heritage Commission or his or her designee;

(5) The Commissioner of State Lands;

(6)(A) Two (2) resident electors of this state appointed by the Governor as public members who are representatives of recreation groups, conservation groups, or other groups interested in the wise use, preservation, and conservation of Arkansas's natural or cultural resources.

(B) One (1) member appointed under this subdivision (a)(6) shall represent rural areas, and the Governor shall consult the Arkansas Forestry Association before making the appointment.

(C) One (1) member appointed under this subdivision (a)(6) shall represent urban areas, and the Governor shall consult the organizations described in subdivision (a)(6)(A) of this section before making the appointment;

(7)(A) One (1) member appointed by the Governor subject to confirmation by the Senate to represent Arkansas cities and towns.

(B) The member appointed under subdivision (a)(7)(A) of this section shall serve a term of two (2) years or until his or her successor is appointed and qualified.

(C) The Governor shall consult the Arkansas Municipal League before making an appointment under this subdivision (a)(7);

(8)(A) One (1) member appointed by the Governor subject to confirmation by the Senate to represent Arkansas counties.

(B) The member appointed under subdivision (a)(8)(A) of this section shall serve a term of two (2) years or until his or her successor is appointed and qualified.

(C) The Governor shall consult the County Judges Association of Arkansas before making an appointment under this subdivision (a)(8);

(9) One (1) member appointed by the Speaker of the House of Representatives; and

(10) One (1) member appointed by the President Pro Tempore of the Senate.

(b) Members of the council shall serve without pay. However:

(1)(A) The Secretary of the Department of Parks, Heritage, and Tourism, or his or her designee, the Director of the Division of Arkansas Heritage, or his or her designee, the Chair of the State Parks, Recreation, and Travel Commission or his or her designee, and the Chair of the Arkansas Natural Heritage Commission or his or her designee may receive expense reimbursement for attending meetings of the council as provided by § 25-16-902.

(B) Expense reimbursement under subdivision (b)(1)(A) of this section shall be paid from funds appropriated for the support of the Department of Parks, Heritage, and Tourism, the Division of Arkansas Heritage, the State Parks, Recreation, and Travel Commission, and the Arkansas Natural Heritage Commission, respectively; and

(2)(A) The appointees to the council under subdivisions (a)(6)-(10) of this section, including the city and county representatives on the council, may receive expense reimbursement for reasonable and necessary expenses incurred for meals, lodging, and travel in attending council meetings.

(B) Expense reimbursement under subdivision (b)(2)(A) of this section shall be paid from funds appropriated for the support of the department.

(c) All action by the council shall be taken by the vote of a majority of the members of the council.

(d)(1) The council shall organize by choosing one (1) of its voting members to serve as Chair of the Arkansas Natural and Cultural Resources Council and shall elect such other officers as deemed necessary for the functioning of the council.

(2) The Secretary of the Department of Parks, Heritage, and Tourism shall serve as Secretary of the Arkansas Natural and Cultural Resources Council and shall serve as disbursing officer of any funds appropriated for or administered by the council.

(e) The council shall meet on call of the chair or upon written request of not fewer than four (4) voting members or at such times as provided in rules adopted by the council.

History. Acts 1987, No. 729, §§ 1, 2; 1991, No. 786, § 15; 1997, No. 250, § 103; 1997, No. 1354, § 33; 1997, No. 1357, § 3; 2001, No. 1288, §§ 9, 10; 2015, No. 1100, § 14; 2017, No. 374, § 23; 2019, No. 910, §§ 5660-5663.

Amendments. The 2017 amendment redesignated former (a)(6) as (a)(6)(A); inserted "appointed by the Governor" in (a)(6)(A); added (a)(6)(B) and (a)(6)(C); substituted "The member appointed un-

der subdivision (a)(7)(A) of this section" for "This member" in (a)(7)(B); substituted "The member appointed under subdivision (a)(8)(A) of this section" for "This member" in (a)(8)(B); deleted former (b) through (d) and redesignated the remaining subsections accordingly; rewrote present (b)(1)(B); substituted "may receive expense" for "shall be entitled to" in present (b)(2)(A); and substituted "Expense reimbursement under subdivision (b)(2)(A) of

this section" for "Expenses" in present (b)(2)(B).

The 2019 amendment substituted "Secretary of the Department of Parks, Heritage, and Tourism" for "Director of Department of Parks and Tourism" in (a)(1), (b)(1)(A), and (d)(2); inserted "or his or her designee" in (a)(1), (a)(2), and twice in

(b)(1)(A); substituted "Division of Arkansas Heritage" for "Department of Arkansas Heritage" in (a)(2), (b)(1)(A), and (b)(1)(B); and substituted "Department of Parks, Heritage, and Tourism" for "Department of Arkansas Heritage" in (b)(2)(B).

15-12-103. Disposition of revenues — Grants.

(a) All revenues derived from the additional tax levied by § 26-60-105(b) shall be deposited by the Secretary of the Department of Finance and Administration into the State Treasury as special revenues.

(b) After deducting three percent (3%) of the revenues for distribution to the Constitutional Officers Fund and the State Central Services Fund to be used for the purposes as provided by law, the Treasurer of State shall credit the net amount thereof as follows:

(1)(A) Eighty percent (80%) of the net amount shall be credited to the Arkansas Natural and Cultural Resources Grants and Trust Fund, to be preserved and managed by the Arkansas Natural and Cultural Resources Council for use in the acquisition, management, and stewardship of state-owned lands or the preservation of state-owned historic sites, buildings, structures, or objects which the council determines to be of value for recreation or conservation purposes, with the properties to be used, preserved, and conserved for the benefit of this and future generations.

(B) It is not the intention of this chapter that the council shall itself manage, operate, or maintain any lands so acquired, but, rather, that it from time to time in its own discretion shall make grants to other agencies of the state authorized by law to acquire, manage, operate, and maintain the lands.

(C) The grants shall be made in such amounts, for such purposes, and to such agencies as the council in its discretion shall select.

(D) However, in choosing among competing purposes or expenditures, the council shall be guided by the principles set forth in the Arkansas Statewide Comprehensive Outdoor Recreation Plan as it may exist and be in force from time to time.

(E) In funding state park improvements, the council should initially emphasize the restoration or renovation of existing facilities and historic structures within the state park system.

(F) The council in its discretion shall have power either to allow moneys paid into the Arkansas Natural and Cultural Resources Grants and Trust Fund to accumulate, with only the income thereon being spent, or to expend the whole or any part of the corpus or principal of the Arkansas Natural and Cultural Resources Grants and Trust Fund.

(G) However, the council shall have power to do any and all things necessary to take advantage of federal or private funds donated or obtainable through the use of the Arkansas Natural and Cultural Resources Grants and Trust Fund.

(H) Without limiting the generality of the foregoing provisions of this section, the council shall have power to set aside any portion of the Arkansas Natural and Cultural Resources Grants and Trust Fund into a separate and segregated account, the corpus or principal of which shall be inviolate, and only the income of which may be expended, to the extent necessary to comply with any federal law, regulation, or other requirement in connection with federal matching or grant moneys.

(I) As used in this section, “stewardship” shall include moneys necessary for the maintenance, preservation, operation, improvement, and management of state-owned lands acquired for recreational or conservational purposes and shall include such other stewardship purposes as may be authorized by the council;

(2) Ten percent (10%) of the net amount shall be distributed to the Parks and Tourism Fund Account, to be used by the Department of Parks, Heritage, and Tourism, on approval of the Parks, Recreation, and Tourism Grant Advisory Committee, for making grants for outdoor recreational purposes to cities and counties of this state in accordance with the plan; and

(3) Ten percent (10%) of the net amount shall be credited to a fund to be known as the “Natural and Cultural Resources Historic Preservation Trust Fund”, to be used by the council for providing a source of funds for the operation of the state historic preservation program and the Main Street program.

History. Acts 1987, No. 729, § 5; 2017, No. 374, § 24; 2019, No. 910, §§ 3408, 3409.

Amendments. The 2017 amendment inserted “state park” in (b)(1)(E).

The 2019 amendment substituted “Secretary of the Department of Finance and

Administration” for “Director of the Department of Finance and Administration” in (a); and substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (b)(2).

CHAPTER 13

ARKANSAS ALTERNATIVE FUELS DEVELOPMENT ACT

SUBCHAPTER.

2. PRODUCTION AND STANDARDS.

3. ARKANSAS ALTERNATIVE FUELS DEVELOPMENT PROGRAM.

SUBCHAPTER 2 — PRODUCTION AND STANDARDS

SECTION.

15-13-203. Allowances for variance of the biofuel standard.

SECTION.

15-13-205. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause

provided: “It is found and determined by the General Assembly of the State of Ar-

kansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Effi-

ciencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-13-203. Allowances for variance of the biofuel standard.

The Secretary of the Department of Finance and Administration may grant a waiver for a variance from the biofuel standard under § 15-13-202 if the applicant demonstrates one (1) or more of the following:

(1) The cost of diesel fuel that is blended with biofuel exceeds the cost of diesel that does not contain biofuel by fifteen cents (15¢) per gallon or more;

(2) Diesel fuel blended with biofuel is not available for purchase in the geographic region; or

(3) Compliance with the biofuel standard is not economically feasible.

History. Acts 2007, No. 699, § 1; 2019, No. 910, § 3410.

Amendments. The 2019 amendment substituted “Secretary of the Department

of Finance and Administration” for “Director of the Department of Finance and Administration”.

15-13-205. Rules.

The Secretary of the Department of Finance and Administration shall promulgate rules to provide for the administration of this subchapter.

History. Acts 2007, No. 699, § 1; 2019, No. 315, § 1108; 2019, No. 910, § 3411.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules”.

The 2019 amendment by No. 910 substituted “Secretary of the Department of Finance and Administration” for “Director of the Department of Finance and Administration”.

SUBCHAPTER 3 — ARKANSAS ALTERNATIVE FUELS DEVELOPMENT PROGRAM

SECTION.

- 15-13-301. Arkansas Alternative Fuels Development Program.
- 15-13-302. Production incentives for alternative fuels producers.
- 15-13-303. Production incentives for feedstock processors.

SECTION.

- 15-13-304. Distribution incentives for alternative fuels distributors.
- 15-13-305. Rules.
- 15-13-306. Rebate incentives for modification of motor vehicles.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-13-301. Arkansas Alternative Fuels Development Program.

(a) The Arkansas Alternative Fuels Development Program is established and shall be developed and administered by the Department of Agriculture.

(b) The program shall include four (4) types of incentives:

(1) Capital and operation production incentives for alternative fuels producers;

(2) Production incentives for feedstock processors;

(3) Distribution incentives for alternative fuels distributors; and

(4) Rebate incentives for the:

(A) Differential costs; and

(B) Costs of converting a diesel-powered or gasoline-powered motor vehicle into a:

(i) Dedicated compressed natural gas motor vehicle;

(ii) Bi-fuel compressed natural gas motor vehicle;

(iii) Dedicated propane gas motor vehicle; or

(iv) Bi-fuel propane gas motor vehicle.

(c) The incentives under this subchapter are available only for the following after July 1, 2013:

(1) Capital investments in alternative fuels production facilities, feedstock processing facilities, or distribution facilities;

(2) The production of alternative fuels;

(3) The processing of feedstock; or

(4) The conversion of a diesel-powered or gasoline-powered motor vehicle into a:

(A) Dedicated compressed natural gas motor vehicle;

(B) Bi-fuel compressed natural gas motor vehicle;

(C) Dedicated propane gas motor vehicle; or

(D) Bi-fuel propane gas motor vehicle.

History. Acts 2007, No. 873, § 1; 2011, No. 832, § 2; 2011, No. 1165, § 2; 2013, No. 152 § 4; 2019, No. 910, § 51.

Amendments. The 2019 amendment

substituted "Department of Agriculture" for "Arkansas Agriculture Department" in (a).

15-13-302. Production incentives for alternative fuels producers.

(a) The Arkansas Alternative Fuels Development Program shall include a grant incentive program for alternative fuels producers based on the gallonage production of alternative fuels as provided in this section.

(b) The program shall include grants for:

(1) Capital improvements made after January 1, 2007, for the construction, modification, alteration, or retrofitting of an alternative fuels production facility located and operated in Arkansas; and

(2) Operations costs after January 1, 2007, for the operation of an alternative fuels production facility located and operated in Arkansas.

(c) The Department of Agriculture shall create a grant application process for alternative fuels producers for capital improvements that includes:

(1) An application for a grant under this subsection that shall include at a minimum:

(A) The expected gallonage production of alternative fuels at the facility;

(B) A narrative description of the intended use of the grant moneys; and

(C) Evidence sufficient to satisfy the department that the applicant has the capacity to complete the proposed project;

(2) Instructions about the grant process;

(3) Scoring procedures to determine the award of the grants; and

(4) Other factors that the Secretary of the Department of Agriculture deems necessary.

(d) The department shall create a grant application process for alternative fuels producers for operations costs that includes:

(1) An application for a grant under this subsection shall include at a minimum:

(A) The expected gallonage production of alternative fuels at the facility; and

(B) Evidence sufficient to satisfy the department that the applicant has the capacity to operate during the applicable grant period;

(2) Instructions about the grant process;

(3) Scoring procedures to determine the award of the grants; and

(4) Other factors that the secretary deems necessary.

(e)(1) The department shall prepare an annual progress report on grant assistance made under this section.

(2) The report shall include:

(A) The amount of each grant;

(B) The purpose of each grant;

(C) How grant funds were expended by the grant recipient;

(D) The results produced or the progress made;

(E) The revenues produced;

(F) Tonnages of feedstock materials used; and

(G) The gallonage of alternative fuels produced.

(3) The report for each state fiscal year shall be filed by June 30 of the following fiscal year with the office of the Governor and the Legislative Council.

(f)(1) The secretary shall make cash payments to an alternative fuels producer that qualifies as a grant recipient under this section in an amount not to exceed twenty cents (20¢) per gallon of alternative fuels produced.

(2) The payment to an alternative fuels producer under this section shall be for the annual production of alternative fuels.

(g)(1) The department shall not award a grant in an amount that exceeds two million dollars (\$2,000,000) to any one (1) alternative fuels producer in any one (1) fiscal year.

(2) An entity that holds a controlling interest in more than one (1) alternative fuels production facility is considered one (1) alternative fuels producer under this section.

(h) Nothing in this section shall limit a grant recipient under this section from applying for or receiving a production incentive for feedstock processors under § 15-13-303.

History. Acts 2007, No. 873, § 1; 2019, No. 910, § 52.

Amendments. The 2019 amendment substituted "Department of Agriculture" for "Arkansas Agriculture Department" in

the introductory language of (c); and substituted "Secretary of the Department of Agriculture" for "Secretary of the Arkansas Agriculture Department" in (c)(4).

15-13-303. Production incentives for feedstock processors.

(a) The Arkansas Alternative Fuels Development Program shall include a grant incentive program that provides grants to feedstock processors to assist in the construction, modification, alteration, or retrofitting of feedstock processing facilities that are located and operated in Arkansas.

(b) The Department of Agriculture shall create a grant application process for feedstock processors that shall include:

(1) An application for a grant under this subchapter that shall include at a minimum:

(A) A narrative description of the intended use of the grant moneys; and

(B) Evidence sufficient to satisfy the department that the applicant has the capacity to complete the proposed project;

(2) Instructions about the grant process;

(3) Scoring procedures to determine the award of the grants; and

(4) Other factors that the Secretary of the Department of Agriculture deems necessary.

(c)(1) The department shall prepare an annual progress report on grant assistance made under this section.

(2) The report shall include:

(A) The amount of each grant;

(B) The purpose of each grant;

(C) How grant funds were expended by the grant recipient; and

(D) The origin and tonnage of the feedstock that was processed.

(3) The report for each state fiscal year shall be filed by June 30 of the following fiscal year with the office of the Governor and the Legislative Council.

(d)(1) The department shall not award a grant in an amount that exceeds three million dollars (\$3,000,000) or fifty percent (50%) of the project cost, whichever is less, to any one (1) feedstock processor in any one (1) fiscal year.

(2) An entity that holds a controlling interest in more than one (1) feedstock processing plant is considered one (1) feedstock processor under this section.

(e) Nothing in this section shall limit a grant recipient under this section from applying for or receiving a production incentive for alternative fuels producers under § 15-13-302.

History. Acts 2007, No. 873, § 1; 2009, No. 977, § 2; 2019, No. 910, § 53.

Amendments. The 2019 amendment substituted "Department of Agriculture" for "Arkansas Agriculture Department" in

the introductory language of (b); and substituted "Secretary of the Department of Agriculture" for "Secretary of the Arkansas Agriculture Department" in (b)(4).

15-13-304. Distribution incentives for alternative fuels distributors.

(a) The Arkansas Alternative Fuels Development Program shall include a grant incentive program that provides grants to alternative fuels distributors to assist the alternative fuels distributors with the storage and distribution of the alternative fuels or alternative fuels mixture at distribution facilities that are located and operated in Arkansas.

(b) The Department of Agriculture shall create a grant application process for alternative fuels distributors that shall include:

(1) An application for a grant under this subchapter that shall include at a minimum:

(A) A narrative description of the intended use of the grant moneys; and

(B) Evidence sufficient to satisfy the department that the provision of a grant to the alternative fuels distributor will improve the statewide supply and distribution of alternative fuels and alternative fuels mixtures that are produced in Arkansas;

(2) Instructions about the grant process;

(3) Scoring procedures to determine the award of the grants; and

(4) Other factors that the Secretary of the Department of Agriculture deems necessary.

(c)(1) The department shall prepare an annual progress report on grant assistance made under this section.

(2) The report shall include:

(A) The amount of each grant;

(B) The purpose of each grant;

- (C) How grant funds were expended by the grant recipient;
- (D) The results produced or the progress made in the overall distribution of alternative fuels or alternative fuels mixtures statewide;
- (E) The revenues produced; and
- (F) Tonnages of materials stored and distributed.

(3) The report for each state fiscal year shall be filed by June 30 of the following fiscal year with the office of the Governor and the Legislative Council.

(d) The department shall not award a grant in an amount that exceeds three hundred thousand dollars (\$300,000) or fifty percent (50%) of the project cost, whichever is less, to any one (1) alternative fuels distributor at each alternative fuels distributor site in any one (1) fiscal year.

History. Acts 2007, No. 873, § 1; 2009, No. 977, § 3; 2019, No. 910, § 54.

Amendments. The 2019 amendment substituted "Department of Agriculture" for "Arkansas Agriculture Department" in

the introductory language of (b); and substituted "Secretary of the Department of Agriculture" for "Secretary of the Arkansas Agriculture Department" in (b)(4).

15-13-305. Rules.

After consulting the Arkansas Energy Office of the Division of Environmental Quality, the Department of Agriculture shall promulgate rules to implement and administer this subchapter.

History. Acts 2007, No. 873, § 1; 2009, No. 977, § 4; 2019, No. 910, § 55.

Amendments. The 2019 amendment substituted "Arkansas Energy Office of

the Division of Environmental Quality" for "Arkansas Energy Office" and "Department of Agriculture" for "Arkansas Agriculture Department".

15-13-306. Rebate incentives for modification of motor vehicles.

(a) The Arkansas Alternative Fuels Development Program shall include an incentive program that provides a rebate to a public entity, a company, an organization, or an affiliate of a public entity, a company, or an organization:

(1) To assist in the purchase of a conversion kit used to convert a diesel-powered motor vehicle or gasoline-powered motor vehicle to a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle; and

(2) For the differential costs and incremental costs associated with the conversion of a diesel-powered motor vehicle or gasoline-powered motor vehicle into a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle.

(b) Additional funding for the incentive program provided by this section shall be from gifts, grants, private donations, and other funds made available by the General Assembly.

(c) The Department of Agriculture shall create a rebate application process for a public entity, a company, an organization, or an affiliate of a public entity, a company, or an organization to obtain a rebate that shall include:

(1) An application for a rebate under this subchapter that shall include:

(A) An affidavit or proof that the motor vehicle is registered in Arkansas or will be registered in Arkansas upon acquisition of the motor vehicle; and

(B) Evidence of the following:

(i) The purchase of a dedicated compressed natural gas motor vehicle or a dedicated propane gas motor vehicle and the differential costs; or

(ii) The differential costs, incremental costs, or the costs associated with the conversion of a diesel-powered motor vehicle or gasoline-powered motor vehicle into a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle;

(2) Instructions about the rebate process;

(3) Scoring procedures to determine the award of the rebates; and

(4) Other factors that the Secretary of the Department of Agriculture deems necessary.

(d)(1) The department shall prepare an annual progress report on rebates made under this section.

(2) The report shall include:

(A) The amount of each rebate;

(B) The purpose of the rebate;

(C) The total amount expended by the rebate recipient in converting the diesel-powered motor vehicle or gasoline-powered motor vehicle to a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle; and

(D) The results produced or the progress made in the overall conversion of diesel-powered motor vehicles and gasoline-powered motor vehicles to dedicated compressed natural gas motor vehicles, bi-fuel compressed natural gas motor vehicles, dedicated propane gas motor vehicles, or bi-fuel propane gas motor vehicles.

(3). The report for each state fiscal year shall be filed by June 30 of the following fiscal year with the office of the Governor and the Legislative Council.

(e) An independent third-party evaluator selected by the department shall:

(1) Study the use of a diesel-powered motor vehicle or gas-powered motor vehicle as compared to a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle in the following areas:

- (A) Environmental impact;
- (B) Operational costs; and
- (C) Maintenance costs;

(2) Prepare an annual report of the results from the study; and

(3) File the annual report by June 30 of the following fiscal year with the office of the Governor and the Legislative Council.

(f) The rebate to be awarded by the department is the lesser of:

(1) Seventy-five percent (75%) of the cost for the differential costs, conversion kit, and incremental costs of converting a diesel-powered motor vehicle or gasoline-powered motor vehicle to a dedicated compressed natural gas motor vehicle, bi-fuel compressed natural gas motor vehicle, dedicated propane gas motor vehicle, or bi-fuel propane gas motor vehicle; or

(2) As determined by weight:

(A) Five thousand dollars (\$5,000) for a motor vehicle with a gross vehicle weight rating that does not exceed eight thousand five hundred pounds (8,500 lbs.);

(B) Eight thousand dollars (\$8,000) for a motor vehicle with a gross vehicle weight rating that is more than eight thousand five hundred pounds (8,500 lbs.) but does not exceed fourteen thousand pounds (14,000 lbs.);

(C) Twenty thousand dollars (\$20,000) for a motor vehicle with a gross vehicle weight rating that is more than fourteen thousand pounds (14,000 lbs.) but does not exceed twenty-six thousand pounds (26,000 lbs.); or

(D) Thirty-two thousand dollars (\$32,000) for a motor vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds (26,000 lbs.).

(g) A public entity, a company, an organization, or an affiliate of a public entity, a company, or an organization shall not receive more than fifty thousand dollars (\$50,000) per fiscal year for conversion kit costs, differential costs, and incremental costs.

History. Acts 2011, No. 1165, § 3; 2013, No. 152, § 5; 2015, No. 1149, § 10; 2019, No. 910, § 56.

Amendments. The 2019 amendment substituted "Department of Agriculture"

for "Arkansas Agriculture Department" in the introductory language of (c); and substituted "Secretary of the Department of Agriculture" for "Secretary of the Arkansas Agriculture Department" in (c)(4).

CHAPTER 14

ARKANSAS RETIREMENT COMMUNITY PROGRAM
ACT

SECTION.
15-14-108. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-14-108. Rules.

The Arkansas Association of Development Organizations, Inc., after having received input from the Department of Parks, Heritage, and Tourism and the Arkansas Economic Development Commission, shall promulgate rules to implement this chapter.

History. Acts 2007, No. 808, § 1; 2011, No. 1048, § 7; 2019, No. 315, § 1109; 2019, No. 910, § 5664.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in the section heading and in the text.

The 2019 amendment by No. 910 substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism, the Department of Arkansas Heritage”.

SUBTITLE 2. LAND AND WATER RESOURCES
GENERALLY

CHAPTER 20

GENERAL PROVISIONS

- SUBCHAPTER.
- 2. ARKANSAS NATURAL RESOURCES COMMISSION.
 - 3. ARKANSAS ENVIRONMENTAL QUALITY ACT OF 1973.
 - 4. CONSERVATION EASEMENT ACT.
 - 5. ARKANSAS NATURAL AREAS PROTECTION ACT.
 - 7. ARKANSAS SCENIC RESOURCES ACT OF 1991.

SUBCHAPTER

8. ARKANSAS SOIL AND WATER CONSERVATION COMMISSION POOLED LOAN SECURITIZATION ACT OF 1995.
9. ARKANSAS POULTRY FEEDING OPERATIONS REGISTRATION ACT.
10. ARKANSAS SOIL NUTRIENT MANAGEMENT PLANNER AND APPLICATOR CERTIFICATION ACT.
11. ARKANSAS SOIL NUTRIENT APPLICATION AND POULTRY LITTER UTILIZATION ACT.
13. ARKANSAS WATER, WASTE DISPOSAL, AND POLLUTION ABATEMENT FACILITIES FINANCING ACT OF 2007.

SUBCHAPTER 2 — ARKANSAS NATURAL RESOURCES COMMISSION

SECTION.

- 15-20-204. Organization.
- 15-20-205. Director of commission — Department of Agriculture authority.

SECTION.

- 15-20-206. Rules — Meetings — Oaths, subpoenas, etc. — Judicial review.
- 15-20-207. Powers and duties.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-20-204. Organization.

The Arkansas Natural Resources Commission shall from time to time select from its membership a chair and a vice chair.

History. Acts 1963, No. 14, § 7; A.S.A. 1947, § 9-124; Acts 2019, No. 910, § 57.

Amendments. The 2019 amendment deleted the second sentence.

15-20-205. Director of commission — Department of Agriculture authority.

(a)(1) The Director of the Arkansas Natural Resources Commission shall be appointed by and serve at the pleasure of the Governor.

(2) The director shall report to the Secretary of the Department of Agriculture.

(b) The Department of Agriculture shall be charged with the duty of administering the provisions of this subchapter and the rules and orders established thereunder by the Arkansas Natural Resources Commission.

(c) The commission, by resolution duly adopted, may delegate to the department any of the powers or duties vested in or imposed upon the

commission by this subchapter. These delegated powers and duties may be exercised by the department or the department's designee in the name of the commission.

(d) The Secretary of the Department of Agriculture shall be custodian of all property held in the name of the commission and shall be ex officio the disbursing agent of all funds available for use by the commission.

History. Acts 1963, No. 14, §§ 8, 9; A.S.A. 1947, §§ 9-125, 9-126; Acts 2019, No. 315, § 1110; 2019, No. 910, § 58.

Amendments. The 2019 amendment by No. 315 deleted "regulations" following "rules" in (b).

The 2019 amendment by No. 910 substituted "Director" for "Executive director" in the section heading; and rewrote the section.

15-20-206. Rules — Meetings — Oaths, subpoenas, etc. — Judicial review.

(a) For the purpose of carrying out its functions, the Arkansas Natural Resources Commission shall have authority to make and amend and enforce all necessary or desirable rules and orders not inconsistent with law.

(b) The commission shall adopt and may modify rules for the conduct of its business and shall keep a record of its transactions, findings, and determinations. The record shall be public.

(c) The rules shall provide for regular meetings and for special meetings at the call of the Chair of the Arkansas Natural Resources Commission or the Vice Chair of the Arkansas Natural Resources Commission if he or she is for any reason the acting chair, either at his or her own instance or upon the written request of at least four (4) members.

(d) A quorum shall consist of not less than one-half (½) of the commission membership present at any regular or special meetings, and the affirmative vote of that number shall be necessary for the disposition of any business.

(e) The commission shall meet or hold hearings at such times and places as in each instance may suit the commission's convenience, and all such meetings and hearings shall be open to the public.

(f) In all matters coming before the commission, the commission shall have the power to administer oaths, issue subpoenas, and enforce its decisions and orders pursuant to procedures set out in § 15-22-201 et seq.

(g) Any rule or order made by the commission shall be subject to judicial review pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1963, No. 14, § 7; A.S.A. 1947, § 9-124; Acts 1989, No. 258, § 1; 2019, No. 315, §§ 1111, 1112.

Amendments. The 2019 amendment deleted "regulations" following "rules" in (a) and made a similar change in (g).

15-20-207. Powers and duties.

The Arkansas Natural Resources Commission shall have the authority to:

(1)(A) Enter into negotiations with the duly authorized representatives of adjoining states relating to the protection and use of interstate waters occurring in underground aquifers, streams, lakes, reservoirs, or natural or artificial channels or impoundments and, with the consent of the United States Congress, enter into written compacts in relation thereto which shall become effective upon their ratification by the General Assembly and the legislative bodies of the other states which are parties thereto.

(B) In order that the commission may perform its functions more effectively, the Department of Agriculture shall employ a Water Resources Engineer, and the person so employed, at the time of his or her employment and during the continuance thereof, shall hold a certificate of registration granted by the State Board of Licensure for Professional Engineers and Professional Surveyors;

(2) Cooperate with similar agencies existing in other states, with the several federal departments, and with civic organizations interested in and devoted to water and soil conservation and flood control and prevention;

(3)(A) Cooperate with local organizations, with districts organized under the Arkansas Irrigation, Drainage, and Watershed Improvement District Act of 1949, § 14-117-101 et seq., or other state law of similar import, and with appropriate federal departments and agencies in the development and prosecution of plans for the construction, operation, and maintenance of pools, lakes, reservoirs, dams, levees, ditches, canals, waterways, pumping works, and other facilities.

(B) This cooperation may be for work on improvements on lakes, rivers, bayous, and streams for the purpose of and to provide for irrigation, flood control, and drainage and additionally for preventing erosion, floodwater, and sediment damage and for the conservation, development, utilization, and disposal of water or in furtherance of any such purposes;

(4)(A) Cooperate with counties, municipalities, and the respective instrumentalities thereof and other political subdivisions of the state and other local interests and with the United States Army Corps of Engineers, the United States Bureau of Reclamation, or other appropriate agency of the United States Government in the development and prosecution of plans for water supplies for domestic, municipal, industrial, and other purposes in connection with the construction, maintenance, and operation of federal navigation, flood control, irrigation, or multiple purpose projects whereof the project is of a character that storage or impoundment of water for present or anticipated future demand or need for the purposes stated in this subdivision (4)(A) may be included in any reservoir project in connection with any construction, operation, and maintenance.

(B)(i) Whenever, after having made a detailed study, in conjunction with local interests, of the anticipated present and future demand or need for water for the purposes stated in subdivision (4)(A) of this section, the commission shall be of the opinion that the plans should provide for the impounding of water for current use or for both current and future use, it shall so advise the appropriate federal agency.

(ii) The commission shall also furnish the agency with a copy of its findings and determinations and the basis upon which the findings and determinations were made, including, but not limited to, estimates of quantities of water which will be required from time to time, the prospective users, and estimates of the amounts of revenues to be derived therefrom, together with additional or other information as shall be required to enable the federal agency to make a judgment as to the feasibility of including storage for the aforesaid purposes in any reservoir project.

(C)(i) The commission shall obtain from the appropriate federal agency an estimate of the entire amounts of construction costs, including interest during construction, which would be allocated to water supply for current use only and for both current and future uses.

(ii) Whenever it shall make a determination, based upon the estimates and its own study, that the costs of the project for either or both uses may be amortized over the life of the project, but in no event to exceed fifty (50) years, it shall so advise the local interests in order that all local interests or any one (1) of them may be in a position to make a firm commitment to pay the cost of that part of the project, providing only for storage for current demand or need or to give reasonable assurances that demands for the use of such storage for both anticipated current and future demand or need will be made within a period of time which will permit the paying out of the costs within the life of the project.

(D)(i) Whenever several entities of local interests are involved, the commission, acting in behalf of all of them on their request, may give the appropriate federal agency reasonable assurance, in writing, that the demands for the use of storage for anticipated future needs, as distinguished from anticipated current needs, will be made within a period of time which will permit the paying out of the costs within the life of the project.

(ii) Nothing in this subdivision (4)(D) shall be so construed as to commit the state government either to pay or guarantee the payment of such costs, and a statement to that effect shall be contained in any such writing.

(iii) The foregoing proviso shall not be so construed as to inhibit the right of the commission to pay any costs as related to anticipated future demand or need whenever it shall have been provided with funds for that purpose;

(5) Cooperate with the several federal agencies in the development of their plans for federal public works under the Public Works Acceleration

tion Act, 42 U.S.C. §§ 2641–2643, or other federal law of similar import in such projects as small watershed, river and harbor, flood control, and soil conservation, and promote river navigation and hydroelectric power;

(6)(A) Receive and expend any moneys arising from federal means, grants, contributions, gratuities, reimbursements, or loans payable or distributable to the State of Arkansas by the United States or any of its agencies or instrumentalities under any congressional act or rule or regulation of such an agency or instrumentality now or hereafter enacted or promulgated for or on account of any functions performable by the commission.

(B)(i)(a) The commission shall likewise receive any contributions, grants, or gratuities donated by private persons, associations, or corporations for or on account of any of the functions aforesaid.

(b) All moneys so received shall be deposited into the State Treasury unless provisions shall have otherwise been made by the respective federal agencies, private persons, associations, or corporations furnishing the funds.

(ii) However, if the General Assembly fails to appropriate any such moneys for the use of the Department of Agriculture to support the commission or in the event the specified use of any such moneys precludes their deposit into the State Treasury, the commission may convert any such moneys to the Arkansas Water Development Fund, to be used for the purposes for which granted, donated, or received or as otherwise provided by this subchapter;

(7) Contract and be contracted with;

(8) Take such other action, not inconsistent with law, as it shall deem necessary or desirable to carry out the purposes and intent of this subchapter; and

(9)(A) Execute, issue, and deliver binding and irrevocable conditional or unconditional commitments in the form of letters or other written instruments to lenders of every sort located within or outside the State of Arkansas evidencing the commission's binding, enforceable, and irrevocable commitment and obligation to provide fully amortizing or other permanent financing for water, sewer, solid waste, flood control, drainage, water pollution control abatement and prevention, wetlands, irrigation, and any other projects that the commission may finance under the financial assistance programs that it from time to time administers.

(B) The commission may condition its obligation to provide fully amortizing or other permanent financing upon:

(i) The obtaining of construction, acquisition, or other financing for a qualifying project by a lender acceptable to the commission located within or outside of the State of Arkansas;

(ii) The completion of construction and operational certification of a qualifying project in accordance with commission requirements;

(iii) The acquisition of a project deemed acceptable to the commission;

- (iv) The passage of a specified period of time;
- (v) The issuance of commission bonds or the availability of other commission funds; or
- (vi) Any other conditions of whatever nature that the commission may choose to include in the commitment letter.

History. Acts 1963, No. 14, § 11; 1963, No. 177, § 1; 1969, No. 217, § 7; A.S.A. 1947, § 9-128; Acts 1995, No. 688, § 1; 1997, No. 237, § 2; 2019, No. 910, §§ 59, 60.

Amendments. The 2019 amendment substituted “the commission may perform its functions more effectively, the Depart-

ment of Agriculture” for “it may perform its functions more effectively, the commission” in (1)(B); redesignated (6)(B)(i) as (6)(B)(i)(a) and (6)(B)(i)(b); substituted “The commission” for “It” in (6)(B)(i)(a); rewrote (6)(B)(ii); and made a stylistic change.

SUBCHAPTER 3 — ARKANSAS ENVIRONMENTAL QUALITY ACT OF 1973

SECTION.

15-20-308. Commission — Rights, powers, and duties.

15-20-309. Commission — Power to receive gifts of property and to acquire real estate for trade or exchange.

SECTION.

15-20-313. Designation of areas of local significance.

15-20-318. Use of funds.

15-20-319. Deposit of moneys.

15-20-308. Commission — Rights, powers, and duties.

The Arkansas Natural Heritage Commission shall have the following rights, powers, and duties:

(1) To choose lands, waters, and interests therein to be acquired in the manner set forth elsewhere in this subchapter for inclusion in the system, in accordance with criteria specified in § 15-20-310;

(2)(A)(i) To acquire, by purchase, gift, devise, grant, dedication, as hereinafter defined, or otherwise, the fee or other interest in real property for inclusion in the system.

(ii) However, the commission shall not have the power of eminent domain.

(B) The commission shall retain fee title or convey that title to such agency or department of the state as it may select, after due consideration of:

(i) The particular characteristics of a natural area;

(ii) The type and extent of management required to maintain that area in its natural condition;

(iii) The types and extent of activity permissible which are consistent with preservation of natural heritage; and

(iv) Other factors;

(3) To acquire and hold any interest in real property less than fee, including environmental or scenic easements;

(4)(A) To establish and from time to time amend such policies and rules for the selection, acquisition, management, protection, and use of the system as it may find necessary or appropriate to preserve the

lands or interests therein acquired under this subchapter and carry out the policies of this subchapter.

(B) These policies and rules shall prevail, in the event of conflict, over any policies, rules, and practices of any agency or department that may receive title to any portion of the system;

(5) To cooperate and contract with any federal, state, or local governmental agency, private organization, or individual;

(6)(A) To maintain:

(i)(a) A registry or inventory of lands and waters in the state, whether publicly or privately owned, that retain their primeval character to a substantial degree or that have floral, faunal, ecological, geological, or archeological features of significant scientific, educational, or recreational interest.

(b) The registry shall be known as the "Registry of Natural Areas"; and

(ii) An inventory of habitats of rare, vanishing, or endangered species, subspecies, or populations of plants and animals, and other records of natural areas.

(B) However, the commission shall have no regulatory jurisdiction over lands or interests therein not actually acquired for the system;

(7) To conduct research and investigation and to publish and disseminate information and recommendations pertaining to natural areas and to the system;

(8) To supervise the protection, management, and use of the system and to administer and enforce its policies and rules;

(9) To investigate, promote, advise, and assist in the preservation, protection, and management of natural areas; and

(10) To advise the United States Department of Agriculture and the United States Department of the Interior and other agencies of the United States Government concerning areas or streams eligible for treatment under federal criteria as wildlife refuges, wilderness areas, or wild, scenic, or recreational rivers.

History. Acts 1973, No. 112, § 9; 1977, No. 213, § 1; A.S.A. 1947, § 9-1409; Acts 2001, No. 959, § 1; 2017, No. 720, § 5; 2019, No. 315, §§ 1113, 1114.

Amendments. The 2017 amendment deleted former (11); and made stylistic changes.

The 2019 amendment substituted "policies and rules" for "policies, rules, and regulations" in (4)(A), (4)(B), and (8); and, in (4)(B), deleted "regulations" following the second occurrence of "rules".

15-20-309. Commission — Power to receive gifts of property and to acquire real estate for trade or exchange.

The Arkansas Natural Heritage Commission shall have the following rights, powers, and duties in addition to those already established by law:

(1)(A) To receive gifts, grants, donations, fee conveyances, or transfers of money and property, both real and personal, from private and public sources, or federal, or either, and to sell or dispose of such

property, real and personal, or either, as the commission deems advisable.

(B) Any funds and income from any property described in subdivision (1)(A) of this section shall be deposited into the State Treasury into the Department of Arkansas Heritage Endowment Trust Fund and expended in the same manner as other state moneys are expended upon vouchers drawn by the Director of the Arkansas Natural Heritage Commission; and

(2)(A) With the advice and consent of the Legislative Council and the Governor, to acquire, by purchase or otherwise, real property for the purpose of trade or exchange, and to trade or exchange any such property acquired for lands to be included in the system.

(B) However, the commission shall exercise this power in such a manner that any and all property acquired for the purpose of trade or exchange shall in fact be traded or exchanged forthwith and without delay.

History. Acts 1981, No. 673, § 1; A.S.A. 1947, § 9-1409.2; Acts 2017, No. 374, § 25.

Amendments. The 2017 amendment, in (1)(B), deleted “and all” following “Any”, deleted “and all” following “any”, substi-

tuted “described in subdivision (1)(A) of this section shall be deposited” for “so furnished shall be placed” and substituted “Heritage Endowment Trust Fund” for “Heritage Federal Fund”; and made stylistic changes.

15-20-313. Designation of areas of local significance.

(a) The system and each portion of the system are declared to be areas of local significance within the meaning of 23 U.S.C. § 138.

(b) This chapter does not prohibit or prevent any project or activity authorized or undertaken pursuant to an act of the United States Congress.

History. Acts 1973, No. 112, § 12; A.S.A. 1947, § 9-1412; Acts 2017, No. 374, § 26.

Amendments. The 2017 amendment added the (a) and (b) designations; deleted “§ 4(f) [repealed] of the Department of

Transportation Act of 1966, and of § 138 of the Federal-Aid Highway Act of 1968” preceding “23 U.S.C. § 138” in (a); deleted “now or hereafter” preceding “authorized” in (b); and made stylistic changes.

15-20-318. Use of funds.

Any moneys, funds, and property described in § 15-20-309 shall be used solely for the purpose of carrying out § 15-20-308.

History. Acts 1981, No. 673, § 2; A.S.A. 1947, § 9-1409.3; Acts 2017, No. 374, § 27.

Amendments. The 2017 amendment inserted “described in § 15-20-309”; and made stylistic changes.

15-20-319. Deposit of moneys.

Any moneys collected under § 15-20-317 shall be deposited into a bank account created specifically for the continuing operation of the natural heritage data system developed by the Nature Conservancy.

History. Acts 1981, No. 674, § 2; A.S.A. § 15-20-317 shall be deposited” for “Any 1947, § 9-1418; Acts 2017, No. 374, § 27. and all moneys so collected shall be

Amendments. The 2017 amendment placed”. substituted “Any moneys collected under

SUBCHAPTER 4 — CONSERVATION EASEMENT ACT**SECTION.**

15-20-410. Easements held by Old State House Commission.

15-20-408. Validity.**RESEARCH REFERENCES**

ALR. May Easement or Right of Way Be Appurtenant Where Servient Tenement Is Not Adjacent to Dominant. 15 A.L.R.7th Art. 1 (2015).

15-20-410. Easements held by Old State House Commission.

(a)(1) Approval of the creation, modification, or termination of a conservation easement held by the Old State House Commission shall be executed by the Director of the Old State House Commission in accordance with the rules promulgated by the Old State House Commission to assure that conservation easements shall be in the public interest.

(2) Approval shall be evidenced by a certificate of approval, certificate of modification, or certificate of termination duly executed on behalf of the Old State House Commission and duly recorded in the deed records of the county in which the real property is located.

(b) In determining whether the conservation easement or its continuance is in the public interest, the Old State House Commission shall take into consideration any national, state, regional, and local comprehensive land use or development plan affecting the historical, architectural, archeological, or cultural aspects of the real property.

(c) A conservation easement held by the Old State House Commission may be modified or released, in whole or in part, by the Old State House Commission for such consideration, if any, as the Old State House Commission may determine, in the same manner as the Old State House Commission may dispose of land or other interests in land, but only after a public hearing upon reasonable public notice under the procedures established by the Old State House Commission.

(d) All easements in the name of the Arkansas Commemorative Commission are transferred to the Old State House Commission.

History. Acts 1983, No. 567, § 2; A.S.A. 1947, § 50-1202; Acts 2001, No. 68, § 2; 2019, No. 315, § 1115.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (a)(1).

SUBCHAPTER 5 — ARKANSAS NATURAL AREAS PROTECTION ACT

SECTION.

15-20-502. Rules — Enforcement — Penalties.

15-20-502. Rules — Enforcement — Penalties.

(a) The Arkansas Natural Heritage Commission may promulgate rules establishing policies governing the use and protection of a natural area.

(b) A person violating a rule promulgated by the commission governing a natural area upon conviction is guilty of an unclassified misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars (\$250), or imprisoned for not less than ten (10) days nor more than thirty (30) days for each violation.

(c) A law enforcement officer may issue a citation to and apprehend a person violating a rule promulgated by the commission for use and protection of a natural area and take the person before a court having jurisdiction in the county where the violation was committed.

(d) The Director of the Arkansas Natural Heritage Commission may apply to the circuit court of any county in which a violation of this subchapter is occurring or in which the director has reasonable cause to believe a violation of this subchapter is about to occur, and the circuit court shall have jurisdiction to grant a temporary or permanent injunction restraining any person from violating this subchapter without requiring the director to post bond during the pendency of the action described in this subsection.

(e)(1) In addition to criminal penalties under subsection (b) of this section, a person who violates a rule promulgated by the commission governing a natural area or who causes a violation by his or her employee or agent is liable for a civil penalty of five hundred dollars (\$500) or three (3) times the value of the damages caused, whichever is the greater, and the civil penalty shall be recovered in an action brought by the Attorney General or the commission’s attorney in the proper circuit court.

(2) The civil penalty described in subdivision (e)(1) of this section shall be used to restore the natural area or to secure the preservation of similar areas.

History. Acts 1989, No. 381, § 2; 2017, No. 374, § 28; 2017, No. 634, § 1.

Amendments. The 2017 amendment by No. 374 deleted “and regulations” following “Rules” in the section heading; deleted “and regulations” following “rules”

in (a); substituted “a rule” for “any of the rules and regulations” in (c); substituted “the action described in this subsection” for “this action” at the end of (d); substituted “a rule” for “any rules and regulations” in (e)(1); substituted “The civil pen-

alty described in subdivision (e)(1) of this section” for “The penalty” in (e)(2); and made stylistic changes.

The 2017 amendment by No. 634 deleted “and regulations” following “Rules” in the section heading; substituted “may promulgate rules” for “shall have the authority to promulgate rules and regula-

tions” in (a); rewrote (b) and (c); substituted “the action described in this subsection” for “this action” at the end of (d); substituted “a rule” for “any rules and regulations” in (e)(1); substituted “The civil penalty described in subdivision (e)(1) of this section” for “The penalty” in (e)(2); and made stylistic changes.

SUBCHAPTER 7 — ARKANSAS SCENIC RESOURCES ACT OF 1991

SECTION.

15-20-703. Definitions.

15-20-705. Duties of agencies.

SECTION.

15-20-706. Registry of Scenic Resources.

15-20-707, 15-20-708. [Repealed.]

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-20-703. Definitions.

As used in this subchapter:

(1) “Commission” means the State Parks, Recreation, and Travel Commission;

(2) [Repealed.]

(3) “Department” means the Department of Parks, Heritage, and Tourism; and

(4) “Registry” means the state Registry of Scenic Resources created by this subchapter.

History. Acts 1991, No. 999, § 3; 2017, No. 540, § 15.

Amendments. The 2017 amendment repealed (2).

15-20-705. Duties of agencies.

(a) The State Parks, Recreation, and Travel Commission and the Department of Parks, Heritage, and Tourism shall have the following duties in addition to those otherwise prescribed by law:

(1) To identify and maintain a registry of lands and waters in the state, whether publicly or privately owned, that exhibit outstanding characteristics of scenic beauty;

(2) To cooperate with any federal, state, or local government agency, private organization, or individual;

(3) To investigate, promote, advise, and assist in the preservation, protection, enhancement, and management of scenic resources;

(4) To encourage private organizations and individuals to recognize scenic resources and to utilize “best management practices” in all instances, particularly those affecting scenic resources;

(5) To encourage scenic resources protection by working with agencies and individuals to set up demonstration projects involving such techniques as wildflower plots, adopt-a-spot programs, wetlands restoration, and native plantings wherever possible;

(6) To notify federal agencies of the state’s interest in protecting scenic resources and to request that scenic resources protection and enhancement be included in the appropriate planning activities of the agencies;

(7) By December 1 of each year, submit a report to the Secretary of the Department of Parks, Heritage, and Tourism and the General Assembly describing and accounting for the status and condition of each entry listed in the Registry of Scenic Resources and including any recommendations to be considered by the secretary and General Assembly for improving and enhancing the scenic beauty of the state; and

(8) To bring the Registry of Scenic Resources to the attention of the public through its advertising and public relations efforts.

(b) The commission shall not have regulatory power but shall strongly encourage other state agencies to use existing legislation to protect the scenic resources of the state.

History. Acts 1991, No. 999, §§ 5, 6; 2017, No. 540, § 16; 2019, No. 910, § 5665.

Amendments. The 2017 amendment deleted “the Arkansas Scenic Resources Preservation Coordinating Committee and” following “cooperate with” in (a)(2).

The 2019 amendment substituted “Department of Parks, Heritage, and Tour-

ism” for “Department of Parks and Tourism” in the introductory language of (a); and, in (a)(7), substituted “Secretary of the Department of Parks, Heritage, and Tourism” for “Governor” and inserted “secretary”.

15-20-706. Registry of Scenic Resources.

(a) There is established the Registry of Scenic Resources.

(b) The registry shall identify lands and waters in the state that exhibit outstanding characteristics of scenic beauty.

(c) The registry shall be maintained by the Department of Parks, Heritage, and Tourism.

(d) The registry shall be prepared in a manner which will enable the Division of Arkansas Heritage to include registry records in its environmental review procedures.

History. Acts 1991, No. 999, § 4; 2019, No. 910, § 5666.

Amendments. The 2019 amendment

substituted “Department of Parks, Heritage, and Tourism” for “Department of Parks and Tourism” in (c); and substituted

"Division of Arkansas Heritage" for "Department of Arkansas Heritage" in (d).

15-20-707, 15-20-708. [Repealed.]

Publisher's Notes. These sections, concerning the Arkansas Scenic Resources Preservation Coordinating Committee and duties of the committee, were repealed by Acts 2017, No. 540, §§ 17, 18.

The sections were derived from the following sources:

15-20-707. Acts 1991, No. 999, § 7; 1997, No. 250, § 106.

15-20-708. Acts 1991, No. 999, § 8.

SUBCHAPTER 8 — ARKANSAS SOIL AND WATER CONSERVATION COMMISSION POOLED LOAN SECURITIZATION ACT OF 1995

SECTION.

15-20-802. Commission authorized to pledge or sell loans or other securities.

15-20-802. Commission authorized to pledge or sell loans or other securities.

(a)(1) The Arkansas Natural Resources Commission is authorized to pledge or sell loans or undivided interests in pools of loans to investors in consideration for the payment to the commission of cash or cash equivalents.

(2) The commission is further authorized to:

(A) Sell the loans or undivided interests in pools of loans to investors at par, a premium, or a discount;

(B) Pledge the loans or undivided interests in pools of loans to investors as security for repayment of commission indebtedness to the investors; or

(C) Otherwise use the loans or undivided interests in pools of loans to collateralize or secure other financial relationships with investors as the commission may deem appropriate.

(b)(1) The commission is authorized to supplement its sale, pledge, or other use of the loans with any form of transaction enhancement that the commission may deem appropriate and that the financial advisor deems fair and reasonable.

(2) Specifically, the commission may:

(A) Establish a cash reserve against which defaulting loans may be offset;

(B) Agree to replace defaulted loans with other loans that the commission subsequently originates or otherwise possesses;

(C) Agree to repurchase defaulted loans;

(D) Sell to investors loans having a collective face value in excess of the par value of the consideration received from the pool sale or pledge in order to provide a pool of loans from which defaulting loans can be offset or replaced; or

(E) Purchase or provide any other form of transaction enhancement as the commission may deem necessary.

(c) The commission is authorized to:

(1) Sell participation certificates or other indicia of ownership to investors that shall evidence the investor's ownership of undivided interests in loans or pools of the loans sold pursuant to the provisions of this subchapter;

(2) Sell bonds to investors that shall evidence the commission's obligation to repay principal, interest, and redemption premium, if any, to those investors purchasing bonds secured by the loans pursuant to the provisions of this subchapter; or

(3) Sell or place any other form of security involving or secured by the loans or pools that the commission may structure or determine to be appropriate.

(d) The commission is authorized to retain the services of bond counsel, financial advisors, underwriters, investment bankers, indenture trustees, portfolio servicers, and other professionals in structuring, documenting, selling, and servicing the loans and securities contemplated to be issued under this subchapter.

(e)(1) The commission is authorized to use the proceeds received from the sale or pledge of the loans:

(A) To fund water, sewer, solid waste, flood control, drainage, water pollution abatement, prevention, or control, wetlands, irrigation, or other projects that the commission may fund under the financial assistance programs that it administers from time to time;

(B) To provide the matching funding for programs sponsored by state or federal governmental agencies or entities that provide assistance for the types of projects listed in this subdivision (e)(1); or

(C) For any other lawful purpose that the commission may identify from time to time.

(2) All proceeds from the sale or pledge of the loans or pools of loans under this subchapter shall be deposited into:

(A) The Arkansas Water Development Fund;

(B) The Water, Sewer, and Solid Waste Systems Revolving Fund;

(C) The Arkansas Water Resources Cost Share Revolving Fund; or

(D) Any other fund or account or combination of funds or accounts that the commission shall direct.

(f) The commission is authorized and empowered to sell or pledge single or multiple series or pools of loans with those amortization and payment schedules and other terms and conditions that the commission may specify from time to time, including, without limitation, the establishment of debt service reserve funds, capitalized interest funds, cost of issuance funds, defaulted loan reserve accounts, and all other forms of accounts or funds that the commission may deem appropriate.

History. Acts 1995, No. 690, §§ 2, 3, deleted (e)(2)(B) and redesignated the remaining subdivisions accordingly.

Amendments. The 2017 amendment

SUBCHAPTER 9 — ARKANSAS POULTRY FEEDING OPERATIONS REGISTRATION ACT

SECTION.

15-20-903. Definitions.

15-20-904. Registration.

SECTION.

15-20-905. Enforcement.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-20-903. Definitions.

As used in this subchapter:

(1) "Commission" means the Arkansas Natural Resources Commission;

(2) "Conservation district" means a conservation district created under the Conservation Districts Law, § 14-125-101 et seq.;

(3) [Repealed.]

(4) "Land application" means the application of litter, in whole or in part, to land;

(5) "Litter" means byproducts associated with the confinement of poultry, including excrement, feed wastes, bedding materials, composted carcasses, and any combinations thereof;

(6) "Litter management system" means any method used to dispose or utilize litter;

(7) "Person" means any individual, partnership, company, association, fiduciary, corporation, or any organized group of persons whether incorporated or not;

(8) "Poultry" means chickens, turkeys, ducks, geese, and any other domesticated birds;

(9)(A) "Poultry feeding operation" means any lot or facility where two thousand five hundred (2,500) or more poultry are housed or confined and fed or maintained on any one (1) day in the preceding twelve-month period.

(B) Multiple poultry houses within a reasonable proximity to one another under the control of one (1) owner shall be considered one (1) facility;

(10) "Poultry processor" means an entity that processes poultry for commercial sale; and

(11) "Waters within the state" means all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, that are contained within, flow through, or border upon this state or any portion of the state.

History. Acts 2003, No. 1060, § 1; **Amendments.** The 2019 amendment 2005, No. 1962, § 66; 2019, No. 910, § 61. repealed (3).

15-20-904. Registration.

(a) The Arkansas Natural Resources Commission shall operate an annual registration program, to be administered by the Department of Agriculture, for the purpose of assembling and maintaining information on the number, composition, and practices of poultry feeding operations in the state.

(b) All poultry feeding operations shall register annually with the commission.

(c) The commission shall promulgate rules that require a poultry feeding operation to submit, at a time and in a manner determined by the commission, information regarding:

(1) The number and kind of poultry housed or maintained in the poultry feeding operation;

(2) The location of the poultry feeding operation;

(3) The litter management system used;

(4) The litter storage system used and the amount of litter stored;

(5) The acreage owned or controlled by the poultry feeding operation and used for land application of litter;

(6) The land application practices used by the poultry feeding operation and the amount of litter applied;

(7) The amount of litter transferred or otherwise utilized by the poultry feeding operation and the type of transfer or utilization;

(8) The poultry processor or processors with which the poultry feeding operation has contracted to provide poultry; and

(9) Any other relevant information necessary to effect the purposes of this subchapter.

(d) Each poultry feeding operation required to register under this subchapter shall pay an annual fee of ten dollars (\$10.00) to the commission.

(e) All rules shall be promulgated pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(f)(1) Information collected about an individual poultry feeding operation shall not be a public record.

(2) Compilation or summary information that prevents identification of individual poultry feeding operations shall be a public record.

(g) The commission may delegate portions of the annual registration program for implementation to the department or conservation districts, or both.

History. Acts 2003, No. 1060, § 1; 2019, No. 315, §§ 1116, 1117; 2019, No. 910, §§ 62, 63.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in the introductory language of (c) and in (e).

The 2019 amendment by No. 910 inserted “to be administered by the Department of Agriculture” in (a); and substituted “Department of Agriculture” for “Executive Director of the Arkansas Natural Resources Commission” in (g).

15-20-905. Enforcement.

(a)(1) Agents of the Department of Agriculture may enter on private property to determine compliance with this subchapter.

(2)(A) Entry shall not occur without prior notification of the owner, operator, or agent in charge of the property.

(B) Notice shall be given to the owner, operator, or agent in charge of the property at least seventy-two (72) hours before entry.

(3) Documentation of biosecurity measures taken and biosecurity certification received by an inspection agent of the department or by a conservation district officer, including a biosecurity log book, shall be available to the owner upon request.

(4) Upon notice of disease outbreak by the department, inspection under this subchapter shall be automatically suspended until notification by the department that it is safe to resume inspections.

(b)(1) The Arkansas Natural Resources Commission may impose administrative penalties not to exceed five hundred dollars (\$500) per violation against the owner of a poultry feeding operation that fails to comply with the requirements of this subchapter.

(2) The imposition of administrative penalties shall be conducted pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(3) If the person against whom an administrative penalty has been imposed by the commission under this section fails to pay the penalty to the commission, the commission may file an action to collect the administrative penalty in the circuit court of the county in which the poultry feeding operation is located.

History. Acts 2003, No. 1060, § 1; 2005, No. 1871, § 1; 2019, No. 910, § 64.

Amendments. The 2019 amendment substituted “Department of Agriculture may” for “Arkansas Natural Resources Commission shall have the power to” in

(a)(1); substituted “Department of Agriculture” for “Arkansas Natural Resources Commission” in (a)(3); and substituted “Department of Agriculture” for “Arkansas Livestock and Poultry Commission” twice in (a)(4).

SUBCHAPTER 10 — ARKANSAS SOIL NUTRIENT MANAGEMENT PLANNER AND APPLICATOR CERTIFICATION ACT

SECTION.

15-20-1003. Definitions.

15-20-1004. Nutrient planner program.

15-20-1005. Nutrient applicator program.

SECTION.

15-20-1006. Procedure.

15-20-1008. Administrative penalties.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-20-1003. Definitions.

As used in this subchapter:

(1) "Commission" means the Arkansas Natural Resources Commission;

(2) "Crop" means any vegetative cover;

(3) [Repealed.]

(4) "Litter" means byproducts associated with the confinement of livestock, including excrement, feed wastes, bedding materials, composted carcasses, and any combinations thereof;

(5) "Livestock" means animals kept or raised for use or pleasure, especially farm animals kept for use and profit, including horses, cattle, swine, and poultry;

(6)(A) "Nutrient" means a substance or recognized plant nutrient, element, or compound that is used or sold for its plant-nutritive content or its claimed nutritive value.

(B) "Nutrient" includes litter, compost as fertilizer, commercially manufactured chemical or organic fertilizers, sewage sludge, or combinations thereof;

(7) "Nutrient application" means the process by which humans apply nutrients to soil or associated crops;

(8) "Nutrient applicator" means any person who applies nutrients to soil or associated crops;

(9) "Nutrient management plan" means any plan prepared to assist landowners and operators in the proper management and utilization of nutrient sources for maximum soil fertility and protection of the waters within the state;

(10)(A) “Nutrient surplus area” means the:

(i) Illinois River watershed, included within Benton, Crawford, and Washington counties;

(ii) Spavinaw Creek watershed, included within Benton County;

(iii) Honey Creek watershed, included within Benton County;

(iv) Little Sugar Creek watershed, included within Benton County;

(v) Upper Arkansas River watershed, which includes Lee Creek within Crawford and Washington counties and Massard Creek within Sebastian County;

(vi) Poteau River watershed, included within Polk, Scott, and Sebastian counties;

(vii) Mountain Fork of the Little River watershed, included within Polk County; and

(viii) Upper White River watershed above its confluence with the Crooked Creek.

(B) No additional areas may be added unless the areas are added as nutrient surplus areas pursuant to the Arkansas Soil Nutrient Application and Poultry Litter Utilization Act, § 15-20-1101 et seq.;

(11) “Person” means any natural person; and

(12) “Waters within the state” means all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, including surface and underground, natural or artificial, and public or private, that are contained within, flow through, or border upon this state or any portion of the state.

History. Acts 2003, No. 1059, § 1; **Amendments.** The 2019 amendment 2005, No. 253, § 1; 2019, No. 910, § 65. repealed (3).

15-20-1004. Nutrient planner program.

(a) The Arkansas Natural Resources Commission shall develop and implement a nutrient management education, training, and certification program to certify the minimal competence and knowledge of a person preparing a nutrient management plan.

(b)(1) The planner certification program is voluntary for planners who develop nutrient management plans outside nutrient surplus areas.

(2) The commission may not require a nutrient planner to become certified unless the planner intends to develop nutrient management plans for areas within nutrient surplus areas or the nutrient management plans or the components of the nutrient management plans are to be paid, in whole or part, by federal or state funds.

(c) The commission shall promulgate rules that:

(1) Specify qualifications and standards for a person to be deemed competent in nutrient management plan preparation and provide for the issuance of documentation of certification to the person;

(2) Specify the conditions under which a certification issued may be suspended or revoked;

(3) Establish fees to be paid by a person enrolling in the training and certification programs;

(4) Provide for the performance of other duties and the exercise of other powers by the Department of Agriculture as may be necessary to provide for the training and certification of a person preparing nutrient management plans; and

(5) Give due consideration to relevant existing agricultural or other certification programs.

History. Acts 2003, No. 1059, § 1; 2019, No. 315, § 1118; 2019, No. 910, § 66.

The 2019 amendment by No. 910 substituted "Department of Agriculture" for "Executive Director of the Arkansas Natural Resources Commission" in (c)(4).

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in the introductory language of (c).

15-20-1005. Nutrient applicator program.

(a) The Arkansas Natural Resources Commission shall develop and implement a nutrient applicator training and certification program to certify the competence and knowledge of a person making nutrient application, including the proper utilization of litter.

(b)(1) The applicator certification program is voluntary for nutrient applicators that apply nutrients outside nutrient surplus areas.

(2) The commission may not require a nutrient applicator to become certified unless the applicator intends to apply nutrients within nutrient surplus areas or otherwise utilize litter produced within nutrient surplus areas.

(c) The commission shall promulgate rules that:

(1) Specify the qualifications and standards for a person to be deemed competent in nutrient application and provide for the issuance of documentation of certification to the person;

(2) Specify the conditions under which a certification issued may be suspended or revoked;

(3) Establish fees to be paid by persons enrolling in the training and certification programs; and

(4) Provide for the performance of other duties and the exercise of other powers by the Department of Agriculture as may be necessary to provide for the training and certification of a person making nutrient application.

History. Acts 2003, No. 1059, § 1; 2019, No. 315, § 1119; 2019, No. 910, § 67.

The 2019 amendment by No. 910 substituted "Department of Agriculture" for "Executive Director of the Arkansas Natural Resources Commission" in (c)(4).

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in the introductory language of (c).

15-20-1006. Procedure.

- (a) The process for the development of rules and the imposition of administrative penalties shall be conducted pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.
- (b) Any records collected by the Arkansas Natural Resources Commission in furtherance of this subchapter that contain information about a specific nutrient management plan or specific nutrient application shall not be made public record.

History. Acts 2003, No. 1059, § 1; 2019, No. 315, § 1120. **Amendments.** The 2019 amendment substituted “rules” for “regulations” in (a).

15-20-1008. Administrative penalties.

- (a) The Arkansas Natural Resources Commission may impose administrative penalties not to exceed one thousand dollars (\$1,000) per violation against any person violating this subchapter or rules adopted pursuant to this subchapter.
- (b) The commission or the commission’s designee may issue subpoenas under § 15-22-208.
- (c) If a person against whom an administrative penalty has been imposed by the commission as authorized in this section fails to pay the penalty to the commission, the commission may file an action to collect the administrative penalty in the circuit court of the county in which the person resides.

History. Acts 2003, No. 1059, § 1; 2019, No. 315, § 1121; 2019, No. 910, § 68. **Amendments.** The 2019 amendment by No. 910 substituted “the commission’s designee” for “the Executive Director of the Arkansas Natural Resources Commission” in (b). The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a).

SUBCHAPTER 11 — ARKANSAS SOIL NUTRIENT APPLICATION AND POULTRY LITTER UTILIZATION ACT

- SECTION.
- 15-20-1103. Definitions.
 - 15-20-1105. Regulatory considerations.
 - 15-20-1107. Nutrient management plan.
 - 15-20-1108. Poultry litter management plan.
 - 15-20-1110. [Repealed.]

- SECTION.
- 15-20-1111. Implementation.
 - 15-20-1112. Enforcement.
 - 15-20-1114. No conflict with Arkansas Water and Air Pollution Control Act.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-20-1103. Definitions.

As used in this subchapter:

(1) "Certified nutrient applicator" means any natural person that has shown to the Arkansas Natural Resources Commission that he or she has the minimal knowledge and technical competence necessary to properly apply nutrients;

(2) "Commission" means the Arkansas Natural Resources Commission;

(3) "Conservation district" means a conservation district created under the Conservation Districts Law, § 14-125-101 et seq.;

(4) "Crop" means any vegetative cover;

(5) [Repealed.]

(6) "Litter" means byproducts associated with the confinement of livestock, including excrement, feed wastes, bedding materials, composted carcasses, and any combinations thereof;

(7) "Livestock" means animals kept or raised for use or pleasure, especially farm animals kept for use and profit, including horses, cattle, swine, and poultry;

(8)(A) "Nutrient" means a substance or recognized plant nutrient, element, or compound that is used or sold for its plant-nutritive content or its claimed nutritive value.

(B) "Nutrient" includes substances in litter, compost as fertilizer, commercially manufactured chemical and organic fertilizers, sewage sludge, and combinations thereof;

(9) "Nutrient application" means the process by which humans apply nutrients to soil or associated crops;

(10) "Nutrient applicator" means any person that applies nutrients to soil or associated crops;

(11) "Nutrient management plan" means a plan prepared to assist landowners and operators in the management of fertilizers, litter, sewage sludges, compost, and other nutrient sources for maximum soil fertility and protection of the waters within the state;

(12) "Nutrient surplus area" means an area declared by § 15-20-1104 in which the soil concentration of one (1) or more nutrients is so high or the physical characteristics of the soil or area are such that continued application of the nutrient to the soil could negatively impact soil fertility and the waters within the state;

(13) "Person" means any individual, partnership, company, association, fiduciary, corporation, or any organized group of persons whether incorporated or not;

(14) "Poultry" means chickens, turkeys, ducks, geese, and any other domesticated birds;

(15)(A) "Poultry feeding operation" means any lot or facility where two thousand five hundred (2,500) or more poultry are housed or confined and fed or maintained on any one (1) day in the preceding twelve-month period.

(B) Multiple poultry houses within a reasonable proximity to one another under the control of one (1) owner shall be considered one (1) facility;

(16) "Poultry litter management plan" means the plan for utilization of litter by poultry feeding operations pursuant to § 15-20-1108;

(17) "Protective rate" means the agronomic rate or other rate as determined by the commission of a designated nutrient that provides for proper crop utilization and prevention of significant impact to waters within the state; and

(18) "Waters within the state" means all streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, that are contained within, flow through, or border upon this state or any portion of the state.

History. Acts 2003, No. 1061, § 1; **Amendments.** The 2019 amendment 2005, No. 1962, § 67; 2019, No. 910, § 69. repealed (5).

15-20-1105. Regulatory considerations.

In developing rules to implement this subchapter, the Arkansas Natural Resources Commission shall consider:

(1) The current and projected level of nutrients in the soil within the area;

(2) The current or potential impacts of surplus nutrients within the area;

(3) Litter produced and applied in the area;

(4) Commercial fertilizer, compost, and other sources of nutrients applied within the area;

(5) The current or projected nutrient needs within the area, including the nutrient level necessary to maintain soil fertility, current and future cropping patterns, and those crops' demands for nutrients;

(6) The soil type, geology, hydrology, and other physical characteristics of the area;

(7) The types of water bodies and the uses of the waters within the area; and

(8) Any other relevant information necessary to effect the purposes of this subchapter.

History. Acts 2003, No. 1061, § 1; substituted “rules” for “regulations” in the 2019, No. 315, § 1122. introductory language.

Amendments. The 2019 amendment

15-20-1107. Nutrient management plan.

(a)(1) Nutrient management plans shall be approved by the board of directors of the conservation district where a majority of the land to which the nutrient management plan applies is located.

(2) The person requesting a nutrient management plan may appeal the nutrient management plan’s disapproval or any of the nutrient management plan’s provisions to the Arkansas Natural Resources Commission.

(b) In considering the approval of a nutrient management plan, a conservation district board of directors and the commission shall consider the nutrient management plan’s provision for:

- (1) Soil nutrient testing;
- (2) The level of nutrients contained in the nutrient source;
- (3) Nutrient application rates, including the methodology utilized in determining the rate;
- (4) Crops being grown, soil type, geology, hydrology, and other physical characteristics of land on which the nutrient will be applied;
- (5) The manner and timing of nutrient application;
- (6) The method for keeping application records contained in the nutrient management plan; and
- (7) The qualifications of the person developing the nutrient management plan.

(c) If the land application of a designated nutrient within a nutrient surplus area is a part of a process regulated under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or other similar federal or state law and the permit contains conditions regulating the nutrient application of the designated nutrient acceptable to the commission, then the permit shall serve as the nutrient management plan.

(d) An approved nutrient management plan shall constitute a permit to apply nutrients consistent with the nutrient management plan.

History. Acts 2003, No. 1061, § 1; Commission” for “Executive Director of 2005, No. 1871, § 3; 2019, No. 910, § 70. the Arkansas Natural Resources Commis-

Amendments. The 2019 amendment substituted “Arkansas Natural Resources” in (a)(2).

15-20-1108. Poultry litter management plan.

(a)(1) Poultry litter management plans shall be approved by the board of directors of the conservation district where a majority of the land to which the poultry litter management plan applies is located.

(2) The person requesting a poultry litter management plan may appeal the poultry litter management plan’s disapproval or any of the poultry litter management plan’s provisions to the Arkansas Natural Resources Commission.

(b)(1) Poultry feeding operations within a surplus nutrient area shall develop and implement a poultry litter management plan acceptable to the commission.

(2) The person that develops the poultry litter management plan shall have obtained certification from the commission in planning.

(3) If the commission determines it to be beneficial, the poultry litter management plan may be a part of a nutrient management plan.

(c) At a minimum, the poultry litter management plan shall contain a:

(1) Periodic poultry litter nutrient content analysis component;

(2) Poultry litter utilization component providing for the proper utilization of the litter produced, including provisions ensuring that:

(A) Land application within a nutrient surplus area is in accordance with a nutrient management plan or at a rate not to exceed the protective rate;

(B) Land application outside a nutrient surplus area is in a method and at a rate acceptable to the commission; and

(C) Litter not land-applied is converted to a nonnutrient use or other use acceptable to the commission; and

(3) Records component that requires the owner of the poultry feeding operation to maintain sufficient records at the site of the poultry feeding operation to determine poultry litter utilization and compliance with the other portions of the poultry litter management plan.

(d) The commission may accept a plan or permit prepared to comply with federal law as a poultry litter management plan if the plan or permit substantially meets the requirements of this section.

(e) An approved poultry litter management plan shall constitute a permit to apply nutrients consistent with the poultry litter management plan.

History. Acts 2003, No. 1061, § 1; 2005, No. 1871, § 4; 2019, No. 910, § 71.

Amendments. The 2019 amendment substituted “Arkansas Natural Resources

Commission” for “Executive Director of the Arkansas Natural Resources Commission” in (a)(2).

15-20-1110. [Repealed.]

Publisher’s Notes. This section, concerning the litter utilization committee, was repealed by Acts 2021, No. 501, § 3,

effective July 28, 2021. The section was derived from Acts 2003, No. 1061, § 1; 2019, No. 910, § 72.

15-20-1111. Implementation.

(a)(1) The Arkansas Natural Resources Commission may develop all rules necessary to implement this subchapter.

(2) Rules shall be adopted pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) The commission may delegate portions of the program for implementation to the Department of Agriculture or conservation districts, or both.

(c)(1) The commission may defer the requirements of §§ 15-20-1106 — 15-20-1108 for up to two (2) years after declaration as a nutrient surplus area to allow the development of nutrient management plans and poultry litter management plans and implementation of alternative use plans in order that persons affected may come into compliance with this subchapter.

(2) The commission may further defer the requirements of §§ 15-20-1106 — 15-20-1108 if it determines that there is no alternative use for litter or there are no readily available, affordable alternative nutrient supplies for which litter has been used.

History. Acts 2003, No. 1061, § 1; 2019, No. 315, § 1123; 2019, No. 910, § 73.

The 2019 amendment by No. 910 substituted “Department of Agriculture” for “Executive Director of the Arkansas Natural Resources Commission” in (b).

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a)(1) and (a)(2).

15-20-1112. Enforcement.

(a)(1) Agents of the Department of Agriculture or a conservation district may enter on private property to determine compliance with this subchapter.

(2)(A) Entry shall not occur without prior notification of the owner.

(B) Notice shall be given to the owner, operator, or agent in charge of the property at least seventy-two (72) hours before entry.

(3) Documentation of biosecurity measures taken and biosecurity certification received by an inspection agent of the Department of Agriculture or by a conservation district officer, including a biosecurity log book, shall be available to the owner upon request.

(4) Upon notice of disease outbreak by the department, inspection under this subchapter shall be automatically suspended until notification by the department that it is safe to resume inspections.

(b) The process for the imposition of administrative penalties under § 15-20-1113 shall be conducted pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2003, No. 1061, § 1; 2005, No. 1871, § 5; 2019, No. 910, § 74.

mission” in (a)(1) and (a)(3), and substituted “Department of Agriculture” for “Arkansas Livestock and Poultry Commission” twice in (a)(4).

Amendments. The 2019 amendment substituted “Department of Agriculture” for “Arkansas Natural Resources Com-

15-20-1114. No conflict with Arkansas Water and Air Pollution Control Act.

(a)(1) This subchapter shall not supersede the requirement that liquid animal waste management systems comply with the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or rules adopted under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

(2) This subchapter shall not supersede the requirements of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., for waste disposal systems utilizing land application as a part of the waste disposal process.

(b) Except as provided in subsection (a) of this section, nutrient and litter management activities conducted in compliance with this subchapter shall not be subject to regulation under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or rules adopted under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

(c)(1) The Arkansas Natural Resources Commission may determine that certain nutrient and litter-management activities regulated under the provisions of this subchapter are not in compliance with the subchapter and thus constitute placing sewage, industrial waste, or other wastes in a location where it is likely to cause pollution to the waters within the state.

(2) The nutrient and litter-management activities so determined shall be subject to regulation under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and rules adopted under the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq.

History. Acts 2003, No. 1061, § 1; substituted “rules” for “regulations” in 2019, No. 315, §§ 1124-1126. (a)(1), (b), and (c)(2).

Amendments. The 2019 amendment

SUBCHAPTER 13 — ARKANSAS WATER, WASTE DISPOSAL, AND POLLUTION ABATEMENT FACILITIES FINANCING ACT OF 2007

SECTION.

15-20-1314. Additional powers of the Arkansas Natural Resources Commission.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-20-1314. Additional powers of the Arkansas Natural Resources Commission.

(a) In addition to powers conferred under other laws, the Arkansas Natural Resources Commission may take appropriate action to carry out the purposes of this subchapter, including the power to:

- (1) Develop projects;
- (2) Operate and maintain projects;
- (3) Acquire absolute title to and use for any purpose and at any place, water stored in any reservoir or other impoundment;
- (4) Acquire, collect, impound, store, transport, distribute, sell, furnish, and dispose of water to any person at any place;
- (5) Purify, treat, and process water;
- (6) Assist local entities in the preparation of their premises for the use of water furnished by the Arkansas Natural Resources Commission and to construct upon their premises project properties of any kind and in connection therewith to receive, acquire, endorse, pledge, hypothecate, and dispose of notes, bonds, and other evidences of indebtedness;
- (7) Use the bed of any watercourse without adversely affecting existing riparian rights, any highway or any right-of-way, easement, or other similar property rights, or any tax-forfeited land owned or held by the state or by any political subdivision of the state;
- (8) Provide loans and grants from bond proceeds or project revenues to local entities and to authorize local entities to make loans to other persons for payment of project costs in order for the local entity receiving the funds to develop a project;
- (9) Purchase with bond proceeds or project revenues bonds or notes from a local entity in order to provide funds for payment of project costs in order for the local entity receiving the funds to develop a project and to enter into note and bond purchase agreements in connection therewith;
- (10) Appropriate amounts from bond proceeds to satisfy state matching requirements for federal grants, subsidies, and revolving loan funds established by the United States Congress for the purpose of facilitating water, waste disposal, pollution control, abatement and prevention, drainage, irrigation, flood control, and wetlands and aquatic resources projects;
- (11) Appropriate amounts from bond proceeds for the matching of moneys provided pursuant to other laws, including without limitation, § 15-22-501 et seq., the Arkansas Water Resources Cost Share Finance Act, § 15-22-801 et seq., The Water, Sewer, and Solid Waste Management Systems Finance Act of 1975, § 14-230-101 et seq., § 15-22-1101 et seq., and § 15-5-901 et seq.;
- (12) Construct or cause to be constructed, lease as lessee, lease as lessor, and in any manner acquire, own, hold, maintain, operate, sell, dispose of, exchange, mortgage, or lend with respect to all or any part of any project;
- (13) Acquire, own, hold, use, exercise, sell, mortgage, pledge, hypothecate, and in any manner dispose of franchises, rights, privileges,

licenses, rights-of-way, and easements necessary, useful, or appropriate for the exercise of the powers or implementation of the purposes set forth in this subchapter;

(14) Sell and convey, mortgage, pledge, lease as lessor, enter into lease-purchase agreements with respect to, and otherwise dispose of all or any part of any project or other properties, tangible or intangible, including without limitation franchises, rights, privileges, licenses, rights-of-way, and easements;

(15) Have and exercise the right of eminent domain for the purpose of acquiring the fee title, an easement, a right-of-way, or any other interest or estate in lands for projects or portions of projects by the procedure now provided for condemnation by municipal corporations, § 18-15-401 et seq.;

(16) Make or accept gifts or grants of moneys, services, franchises, rights, privileges, licenses, rights-of-way, easements, or other property, real or personal or mixed;

(17) Make any contract necessary or convenient for the exercise of the powers or implementation of the purposes of this subchapter;

(18) Fix, regulate, and collect rates, fees, rents, or other charges for making any loan or commitment under this subchapter, for performing accounting and loan servicing duties relating to such loans and for the use of any properties or services furnished by the Arkansas Natural Resources Commission, and with respect thereto, the Arkansas Natural Resources Commission shall not be subject to the jurisdiction or control of the Arkansas Public Service Commission;

(19) Require audits of all accounts related to construction, operation, or maintenance of any project funded by this subchapter;

(20) Take reasonable actions necessary to ensure that debt service requirements are met;

(21) Refinance loans made by the Arkansas Natural Resources Commission from whatever source to local entities in order to develop a project;

(22) Provide loans from bond proceeds or project revenues to local entities to refinance indebtedness of the local entity incurred to develop a project;

(23) Procure insurance, letters of credit, or other credit enhancement for the bonds;

(24) Administer the Water, Waste Disposal, and Pollution Abatement Facilities Development Program;

(25) Purchase with bond proceeds or project revenues bonds or notes from a local entity in order to provide funds to refinance indebtedness incurred by a local entity to develop a project; and

(26) Take any other action appropriate to accomplish the purposes of this subchapter. ;

(b) The Arkansas Natural Resources Commission may accomplish the purposes of this subchapter through the delegation of any administrative functions to the Department of Agriculture.

History. Acts 2007, No. 631, § 1; 2019, No. 910, § 75.

Amendments. The 2019 amendment added (b).

CHAPTER 21

LAND

SUBCHAPTER.

2. SURVEYS.
3. ARKANSAS COORDINATE SYSTEM.
4. ACCEPTANCE OF FEDERAL SOIL CONSERVATION ACT.
5. ARKANSAS GEOGRAPHIC INFORMATION SYSTEMS BOARD.

SUBCHAPTER 2 — SURVEYS

SECTION.

- 15-21-202. Land Survey Advisory Board — Creation — Members.
- 15-21-204. Land Survey Advisory Board — Duties.
- 15-21-205. State Surveyor.

SECTION.

- 15-21-206. State Surveyor — Powers and duties.
- 15-21-207. Surveyors generally.
- 15-21-208. Right to enter private property.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-21-202. Land Survey Advisory Board — Creation — Members.

(a)(1) There is created the Land Survey Advisory Board.

(2) The Land Survey Advisory Board shall assist and advise the Arkansas Geographic Information Systems Office and the State Surveyor concerning the powers, authority, and duties conferred upon the office and the State Surveyor under this subchapter.

(b) The Land Survey Advisory Board shall consist of the following:

(1) One (1) person who is a professional engineer and registered professional surveyor designated by the State Board of Licensure for Professional Engineers and Professional Surveyors;

(2) One (1) person who is a registered professional surveyor designated by the Arkansas Society of Professional Surveyors;

(3) One (1) person designated by the Arkansas Realtors Association;

(4) One (1) person who is a registered professional engineer and registered professional surveyor with the Arkansas Department of Transportation designated by the State Highway Commission;

(5) One (1) person designated by the County Judges Association of Arkansas;

(6) One (1) licensed abstractor designated by the Arkansas Abstractors Association; and

(7) One (1) registered professional surveyor designated by the Arkansas Forestry Commission.

(c) All members of the Land Survey Advisory Board shall serve for terms of six (6) years.

(d) Members of the Land Survey Advisory Board shall serve without compensation but may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1973, No. 458, §§ 4, 6; 1975 (Extended Sess., 1976), No. 1035, § 1; A.S.A. 1947, §§ 6-616, 10-1304, 10-1306; reen. Acts 1987, No. 862, § 1; 1995, No. 1296, § 51; 1997, No. 250, § 107; 2005, No. 1178, § 3; 2015 (1st Ex. Sess.), No. 7, § 140; 2015 (1st Ex. Sess.), No. 8, § 140; 2017, No. 145, § 1; 2017, No. 707, § 34.

Amendments. The 2017 amendment by No. 145 twice substituted "Office and the State Surveyor" for "Board" in (a)(2).

The 2017 amendment by No. 707 substituted "Arkansas Department of Transportation" for "Arkansas State Highway and Transportation Department" in (b)(4).

15-21-204. Land Survey Advisory Board — Duties.

The Land Survey Advisory Board shall act in an advisory capacity to the Arkansas Geographic Information Systems Office and the State Surveyor in all matters relative to formulating policies of the Division of Land Surveys of the Arkansas Geographic Information Systems Office and the State Surveyor and in promulgating the rules designed to establish uniform professional surveying and mapping methods and standards for the state and in formulating other policies, practices, and rules as the office and the State Surveyor shall deem necessary to carry out the purpose and intent of this subchapter.

History. Acts 1977, No. 214, § 3; A.S.A. 1947, § 10-1321; Acts 2001, No. 1417, § 2; 2007, No. 752, § 3; 2015 (1st Ex. Sess.), No. 7, § 142; 2015 (1st Ex. Sess.), No. 8, § 142; 2017, No. 145, § 2.

Amendments. The 2017 amendment substituted "Office and the State Sur-

veyor" for "Board", inserted "the State Surveyor", substituted "rules" for "regulations" twice, and substituted "Office and the State Surveyor shall deem" for "Board with the advice of the Land Survey Advisory Board deems".

15-21-205. State Surveyor.

(a) The Arkansas Geographic Information Systems Board shall employ, in consultation with the Secretary of the Department of Transformation and Shared Services, a State Surveyor to be the head of the Division of Land Surveys of the Arkansas Geographic Information Systems Office.

(b) The State Surveyor shall:

(1) Be a person of proven administrative ability, a registered professional surveyor, and a resident of the State of Arkansas with training and experience properly qualifying the person for the performance of his or her official duties;

(2) Be appointed by and serve at the pleasure of the Secretary of the Department of Transformation and Shared Services after consultation with the State Board of Licensure for Professional Engineers and Professional Surveyors and the Arkansas Society of Professional Surveyors;

(3) Devote his or her full time to the performance of his or her official functions and duties as prescribed in this subchapter;

(4) Hold no other lucrative position while serving as State Surveyor; and

(5) Receive such compensation as may be prescribed by law.

History. Acts 1973, No. 458, § 2; 1977, No. 214, § 2; A.S.A. 1947, §§ 10-1302, 10-1320; Acts 2001, No. 1417, § 3; 2005, No. 1178, § 4; 2007, No. 752, § 4; 2015 (1st Ex. Sess.), No. 7, § 143; 2015 (1st Ex. Sess.), No. 8, § 143; 2017, No. 145, §§ 3, 4; 2019, No. 910, §§ 6067, 6068.

Amendments. The 2017 amendment substituted “shall” for “may” in (a); and substituted “Office” for “Board” twice in (b)(2).

The 2019 amendment inserted “in consultation with the Secretary of the Department of Transformation and Shared Services” in (a); and substituted “Secretary of the Department of Transformation and Shared Services after consultation” for “Arkansas Geographic Information Systems Office after the Arkansas Geographic Information Systems Office consults” in (b)(2).

15-21-206. State Surveyor — Powers and duties.

The State Surveyor, acting under the supervision and direction of the Arkansas Geographic Information Systems Office and the Secretary of the Department of Transformation and Shared Services, shall have the following authority and responsibility:

(1) To:

(A) Restore, maintain, and preserve the land survey monuments, section corners, and quarter section corners established by the United States Public Land Survey within the State of Arkansas, together with all pertinent field notes, plats, and documents; and

(B) Restore, establish, maintain, and preserve other boundary markers as may be determined to be necessary or important in establishing and maintaining accurate land descriptions in this state;

(2)(A) To design and cause to be placed at established public land survey corner sites, where practical, substantial monuments permanently indicating with words and figures the exact location involved.

(B) If the monuments cannot be placed at the exact corner point, then witness corners of similar design shall be placed as near as is possible with words and figures indicating the bearing and distance to the true corner;

(3) To establish, maintain, and provide safe storage facilities for a comprehensive system of recordation of information respecting all

monuments established by the United States Public Land Survey within this state and any records as may be pertinent to the Division of Land Surveys of the Arkansas Geographic Information Systems Office establishment or maintenance of other land corners, Arkansas coordinate system stations and accessories, and monuments in general;

(4) To extend throughout the state a triangulation and leveling net of precision whereby the Arkansas Coordinate System 1983, § 15-21-301 et seq., already initiated in this state by the National Geodetic Survey may be made to cover to the necessary extent those areas of the state that do not now have enough geodetic control stations to permit the general use of the system by land surveyors and others;

(5) To collect and preserve information obtained from surveys made by those authorized to establish land monuments or land boundaries and to assist in the proper recording of the information by the duly constituted county officials or other appropriate officials;

(6)(A) To furnish certified copies of records created or maintained by the division to any person, entity, or agency upon request therefor and payment of the prescribed fees.

(B) All such records when certified by the division or a designated assistant shall be admissible in evidence in any court in this state as the original record filed with this agency;

(7) To:

(A) Prescribe reasonable rules not inconsistent with law designed to establish uniform professional surveying and mapping methods and standards in this state;

(B) Disseminate the rules to those engaged in the profession of land surveying; and

(C) Administer the rules by referring evidence of violations to the State Board of Licensure for Professional Engineers and Professional Surveyors under subdivision (9) of this section;

(8) To promote the training and the increase in number of quality surveyors in this state;

(9) To receive and investigate complaints against any surveyor and to present the results from the investigation of complaints to the State Board of Licensure for Professional Engineers and Professional Surveyors for any action the State Board of Licensure for Professional Engineers and Professional Surveyors considers appropriate;

(10) To assist the county assessors in establishing accurate land descriptions of the state-owned or state-claimed lands and to assist the public and private surveyors to obtain land ownership information for surveying purposes;

(11) To accept for the state gifts, grants, and donations from any and all persons, corporations, associations, and foundations and from the federal or state government or any agency or program thereof to be deposited into a financial institution in this state;

(12) To enter into such agreements or contracts with agencies of the United States Government, agencies of the State of Arkansas, other states, and registered land surveyors as the Arkansas Geographic

Information Systems Board deems necessary or desirable to properly plan and execute projects within the scope and purpose of this subchapter; and

(13) To employ, in consultation with the secretary, such surveyors and other professional and nonprofessional assistants and to take other reasonable action as deemed necessary to carry out the purposes of this subchapter.

History. Acts 1973, No. 458, § 3; A.S.A. 1947, § 10-1303; Acts 2001, No. 1417, § 4; 2007, No. 752, § 5; 2007, No. 1051, § 1; 2009, No. 694, §§ 1, 2; 2015 (1st Ex. Sess.), No. 7, § 144; 2015 (1st Ex. Sess.), No. 8, § 144; 2017, No. 145, § 5; 2019, No. 910, §§ 6069, 6070.

Amendments. The 2017 amendment substituted “The State Surveyor” for “Arkansas Geographic Information Systems Board” in the section heading; and substituted “The State Surveyor, acting upon

the supervision and direction of the Arkansas Geographic Information Systems Office” for “The Arkansas Geographic Information Systems Board” in the introductory language.

The 2019 amendment inserted “and the Secretary of the Department of Transformation and Shared Services” in the introductory language; and inserted “in consultation with the Secretary of the Department of Transformation and Shared Services” in (13).

15-21-207. Surveyors generally.

(a) Every employee of the Division of Land Surveys of the Arkansas Geographic Information Systems Office or the Department of Transformation and Shared Services, who performs any work required by law to be done by a registered professional surveyor shall be a registered surveyor.

(b) Neither the State Surveyor nor any employee of the department performing work on behalf of the division shall engage in private land surveying or consultation while so employed by the department.

(c) The State Surveyor and employees of the department performing work on behalf of the division shall cooperate with and assist county surveyors in performing their duties as prescribed by law and shall cooperate with and assist other surveyors in locating or establishing section corner markers and other land description markers and monuments.

(d) In performing the duties and responsibilities provided for in this subchapter, the State Surveyor and employees of the Division of Land Surveys of the Arkansas Geographic Information Systems Office and the department may solicit the advice and assistance of the county surveyor in each county and other surveyors in the county.

(e) If there are no registered professional surveyors in a particular county, the department on behalf of the division may employ qualified registered professional surveyors from other areas of the state to assist the division in carrying out its duties and responsibilities under this subchapter.

History. Acts 1973, No. 458, §§ 10-12; A.S.A. 1947, §§ 10-1310 — 10-1312; Acts 2005, No. 1178, § 5; 2015 (1st Ex. Sess.),

No. 7, § 145; 2015 (1st Ex. Sess.), No. 8, § 145; 2019, No. 910, § 6071.

Amendments. The 2019 amendment

inserted “Department of Transformation and Shared Services” in (a); inserted “department performing work on behalf of the” in (b) and (c); substituted the second occurrence of “department” for “division” in (b); substituted “of the Division of Land

Surveys of the Arkansas Geographic Information Systems Office and the Department of Transformation and Shared Services” for “of the office of State Surveyor” in (d); and inserted “department on behalf of the” in (e).

15-21-208. Right to enter private property.

(a) The State Surveyor or any employee of the Department of Transformation and Shared Services or of the Division of Land Surveys of the Arkansas Geographic Information Systems Office shall have the right to enter upon private property for the purpose of making surveys or searching for, locating, relocating, or remonumenting land monuments, levelling stations, or section corners.

(b) Employees of the department or division shall be immune from arrest for trespass in performing their duties as prescribed in this subchapter and under the direction of a registered professional land surveyor but shall always, when practical, announce and identify themselves and their intentions before entering upon private property.

History. Acts 1973, No. 458, § 7; A.S.A. 1947, § 10-1307; Acts 2015 (1st Ex. Sess.), No. 7, § 146; 2015 (1st Ex. Sess.), No. 8, § 146; 2017, No. 145, § 6; 2019, No. 910, § 6072.

Amendments. The 2017 amendment, in (b), deleted “members of the Land Survey Advisory Board, and members of the Arkansas Geographic Information Sys-

tems Board” following “Employees of the division”, substituted “when” for “where”, and deleted the former last sentence.

The 2019 amendment inserted “Department of Transformation and Shared Services or of the” in (a); and, in (b), inserted “department or” and “and under the direction of a registered professional land surveyor”.

SUBCHAPTER 3 — ARKANSAS COORDINATE SYSTEM

SECTION.

15-21-307. [Repealed.]

15-21-307. [Repealed.]

Publisher’s Notes. This section, concerning proximity to triangulation or traverse stations required for recording in land records, was repealed by Acts 2021,

No. 157, § 1, effective July 28, 2021. The section was derived from Acts 1991, No. 861, § 6.

SUBCHAPTER 4 — ACCEPTANCE OF FEDERAL SOIL CONSERVATION ACT

SECTION.

15-21-403. University powers and duties generally.

15-21-403. University powers and duties generally.

In carrying out the provisions of each state agricultural plan, the University of Arkansas shall have the power to:

(1) Designate and employ such agencies as it may deem necessary;

- (2) Cooperate with local and state agencies and with agencies of other states and of the United States Government;
- (3) Provide for the conduct of research and to conduct educational activities in connection with the operation of such plans;
- (4) Provide for adjustments, by voluntary methods, in the utilization of land and in farming practices and for payments in connection therewith; and
- (5) Prescribe such rules as may be necessary or expedient with reference to the administration of such state agricultural plans.

History. Acts 1937, No. 175, § 5; Pope’s Dig., § 11851; A.S.A. 1947, § 77-1505; Acts 2019, No. 315, § 1127.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (5).

SUBCHAPTER 5 — ARKANSAS GEOGRAPHIC INFORMATION SYSTEMS BOARD

SECTION.	SECTION.
15-21-502. Definitions.	15-21-504. Duties, responsibilities, and authority.
15-21-503. Creation — Board.	

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-21-502. Definitions.

- As used in this subchapter:
- (1) “Agency” means any agency or instrumentality of the State of Arkansas that utilizes geographic information systems data;
 - (2) “Arkansas Geographic Information Systems Office” means the office that provides administrative and technical support to the Arkansas Geographic Information Systems Board, including, but not limited to, staff, hardware, software, and representation;
 - (3) “Arkansas Spatial Data Infrastructure” means the combination of state framework data, data repository, or GeoStor, distribution mechanisms, and the staff and organizational structures necessary to accomplish these activities;
 - (4) “Digital basemap” means a computerized representation of map information;

(5) “Digital cadastre” means the storage and manipulation of computerized representations of parcel maps and linked parcel databases;

(6) “Framework data” means commonly needed data themes developed, maintained, and integrated by public and private organizations within a geographic area. These data themes include, but are not limited to, digital cadastre, public land survey system, elevation, geodetic control, governmental units, hydrography, orthoimagery, transportation, soils, and geology;

(7) “Metadata” means a description of the content, ancestry and source, quality, database schema, and accuracy of digital map data;

(8) “Spatial data” means information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the earth. This information may be derived from, among other things, remote sensing, mapping, and surveying technologies;

(9) “Spatial data repository” means the physical location and content of the state’s consolidated spatial data;

(10) “State Chief Technology Officer” means the Director of the Division of Information Systems;

(11) “State Geodetic Advisor” means the coordinator of the state’s network of geodetic control monuments;

(12) “State Geographic Information Officer” means the person who provides administrative and technical support to the board; and

(13) “State of Arkansas Enterprise Architecture” means the same as the definition set out at § 25-4-103(16).

History. Acts 1995, No. 1259, §§ 2, 7; 1997, No. 914, § 27; 2001, No. 1250, § 2; 2003, No. 1473, § 32; 2009, No. 244, § 1; 2015, No. 103, § 9; 2019, No. 910, § 6073. **Amendments.** The 2019 amendment substituted “Division of Information Systems” for “Department of Information Systems” in (10).

15-21-503. Creation — Board.

(a) The Arkansas Geographic Information Systems Board is created.
(b)(1)(A)(i) The board shall be composed of thirteen (13) voting members.

(ii) Twelve (12) of the voting members shall be appointed by the Governor for terms of four (4) years.

(iii) The thirteenth voting member shall be the State Chief Technology Officer.

(B) At the time of appointment or reappointment, the appointing authority shall adjust the length of terms to ensure that the terms of members of the board are staggered so that, insofar as possible, an equal number of members shall rotate each year.

(2) The board shall be composed of the following members or their designees:

(A) Three (3) state entity representatives;

(B) Three (3) city, county, and local government representatives;

(C) Three (3) private sector representatives;

(D) Three (3) representatives of institutions of higher education;
and

(E) The State Chief Technology Officer.

(3) All members of the board shall have knowledge of the use and usefulness of digital land and geographic information in the management of government and a general awareness of the role of mapping as related to that management.

(4) No person shall serve as a member of the board for more than two (2) full consecutive terms.

(5) Upon the death, disability, resignation, removal, or refusal to serve of any member, the Governor shall appoint a qualified person to complete the board membership.

(c)(1)(A) A chair and a vice chair shall be elected by the board membership to oversee all board and committee meetings.

(B) Members of the board must elect a chair and vice chair every year.

(2)(A) The board shall appoint the State Geographic Information Officer to serve with the approval and at the pleasure of the Governor.

(B) The State Geographic Information Officer will:

(i) Assist the board in developing a comprehensive plan and evaluation procedures on how the state should implement tactical and strategic geographic information systems and land information systems planning;

(ii) Implement informational and educational programs; and

(iii) Coordinate intrastate geographic information systems and land information systems efforts.

(C) The State Geographic Information Officer shall report to the Secretary of the Department of Transformation and Shared Services.

(d)(1) The State Geographic Information Officer shall administer daily operations of the Arkansas Geographic Information Systems Office with direction from the board and the secretary.

(2) This may include liaison between the board, the Governor, the secretary, the State Chief Technology Officer, and public or private sector entities involved in spatial data and land records modernization, project management in the preparation of the strategic planning documents related to spatial data and land records modernization, developing policy and procedures for land records modernization, and developing policy and procedures for the activities of the board.

(3) Additional requirements are the implementation of educational programs, coordinating vendor exhibits, and facilitating technical assistance and consulting.

(e) The board may conduct meetings at such places and such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish its objectives and purposes.

(f) Members of the board shall receive no compensation for their services.

(g) The board will be provided administrative support through the office.

(h) The funds necessary to carry out the provisions of this subchapter shall come from the Geographic Information Systems Fund.

(i) The board shall provide an annual report on the status of the Arkansas Spatial Data Infrastructure to the Joint Committee on Advanced Communications and Information Technology.

History. Acts 1995, No. 1259, §§ 1, 5; substituted “to the Secretary of the Department of Transformation and Shared Services” for “directly to the Governor” in 1997, No. 914, § 28; 2001, No. 1250, § 3; 2003, No. 1473, § 33; 2005, No. 264, § 1; 2007, No. 751, § 7; 2009, No. 244, § 1; (c)(2)(C); added “and the secretary” in 2015, No. 103, § 10; 2019, No. 910, (d)(1); and inserted “the secretary” in §§ 6074, 6075. (d)(2).

Amendments. The 2019 amendment

15-21-504. Duties, responsibilities, and authority.

(a) The Arkansas Geographic Information Systems Board shall be empowered to:

(1) Provide a strategy for the continuing development of the Arkansas Spatial Data Infrastructure;

(2) Develop standard metadata reports through the Arkansas Geographic Information Systems Office; and

(3) Direct available funds to mapping and land records modernization projects at various levels of government.

(b) The board shall:

(1) Undertake a continuing study of the land information needs of federal, state, county, and local agencies and private entities in the state;

(2) Review current and projected technology, standards, and collection methods and all statutes pertaining thereto;

(3) Develop strategies and guidelines for spatial data systems and land records modernization; and

(4) Pursue activities that result in coordinated cost-effective programs for spatial data development and distribution.

(c) The board shall coordinate completion and maintenance of shareable statewide framework data, applications of geographic information system technologies, spatial project methodologies, and methods of funding.

(d)(1) The board will develop and implement a program to further the process of land records modernization.

(2)(A) The board, using the technical support provided by the office, shall coordinate the development and maintenance of a statewide digital cadastre system.

(B) The digital cadastre manages and provides access to cadastral information. Digital cadastre does not represent legal property boundary descriptions, nor is it suitable for boundary determination of the individual parcels included in the digital cadastre.

(C) The board, using the technical support provided by the office, shall coordinate the development and maintenance of a statewide road centerline database.

(D) The board, using the technical support provided by the office, shall coordinate the development and maintenance of a statewide

digital orthophotography database with a priority to be taken in leaf-off conditions.

(e) The duties of the board shall include, but not be restricted to:

(1) Identifying issues, problems, and solutions in implementing an overall Arkansas land and geographic resources program;

(2) Identifying and clarifying the roles of participants;

(3) Developing an overall coordinating schedule for framework data projects;

(4) Recommending methods of financing;

(5) Developing recommended priorities for the distribution of funds;

(6) Developing procedures for the inventory, storage, and distribution of spatial information;

(7) Implementing an ongoing information and education program to promote understanding and productive use of spatial and land information systems by public and private entities and individuals; and

(8) Encouraging and coordinating collaborative spatial project efforts and rewarding participants of collaborative efforts that result in economies of scale or demonstrable cost savings.

(f)(1) The board, through the office, shall define technical specifications and standards to use in the collection, distribution, and reporting of spatial information as required by the State of Arkansas Enterprise Architecture.

(2)(A) The board shall require metadata to be prepared and attached to all publicly funded mapping and geographic information systems databases.

(B) The metadata shall follow the Federal Geographic Data Committee content for the geospatial metadata standard.

(g) The board will serve as a point of contact for existing or proposed federal programs that impact the creation of spatial data or the Arkansas Spatial Data Infrastructure, or both.

(h) The board, through the office, shall review the strategic plans for digital mapping and land records modernization and make recommendations for the distribution of public funds for land records modernization, enhancement, and implementation.

(i) The office will serve as a statewide source of mapping and geographic information technology and will coordinate with federal agencies on state components of the National Spatial Data Infrastructure.

(j)(1) The office may utilize existing repositories as appropriate in order to maintain the Arkansas Spatial Data Infrastructure.

(2)(A) Agreements will be interagency service agreements and are exempt from the provisions of the Arkansas Procurement Law, § 19-11-201 et seq., and rules.

(B) Further, these agreements will not be considered professional services or consulting service contracts.

(k) The office shall submit an annual maintenance plan and budget for geographic information systems and geodata services relating to the Arkansas Spatial Data Infrastructure to the board.

(1) As directed by the board, the office will coordinate framework data development and maintenance, provide technical processing of data sets, evaluate adherence to state-approved mapping standards, and work with spatial data stakeholders on statewide projects.

(m)(1)(A) The board may administer a statewide parcel mapping grant program at the direction of the office.

(B) The office shall develop and implement a program to provide funding support to counties to assist in the completion of statewide parcel mapping.

(2)(A) The program shall be supported by funds and appropriations provided by the General Assembly and the counties.

(B) Counties in the state are eligible to apply for a grant under the program to:

(i) Initiate parcel map automation;

(ii) Accelerate the completion of parcel map automation; or

(iii) Support parcel map improvements.

(C) Grants under the program shall be funded as follows:

(i) State funding equaling up to sixty percent (60%) of the cost of the approved projects; and

(ii) The balance of the cost from required matching funds from the county.

(D) At least forty percent (40%) of the cost of any parcel mapping project shall come from the counties participating in a project awarded under the program.

(E)(i) The matching funds may be provided by counties, affected school districts, and affected cities.

(ii) The matching funds shall be deposited by the office into the Geographic Information Systems Fund.

(3) The office may promulgate rules necessary to administer the program.

(n)(1) The board shall provide mapping services to an entity undertaking an:

(A) Annexation, consolidation, or detachment proceeding under § 14-40-101 et seq.; or

(B) Incorporation or disincorporation proceeding under § 14-38-101 et seq.

(2) The office shall submit a consolidated report of changes in legal boundaries because of an annexation, consolidation, detachment, incorporation, or disincorporation proceeding on an annual basis to the United States Bureau of the Census's Boundary and Annexation Survey.

History. Acts 1995, No. 1259, § 4; 1997, No. 914, § 29; 2001, No. 1250, § 4; 2009, No. 244, § 1; 2011, No. 559, § 1; 2015, No. 103, § 11; 2015, No. 914, § 3; 2017, No. 374, § 30; 2019, No. 315, § 1128.

Amendments. The 2017 amendment inserted "et seq." in (n)(1)(A) and substituted "§ 14-38-101 et seq." for "§ 14-38-116" in (n)(1)(B).

The 2019 amendment substituted "rules" for "regulations" in (j)(2)(A).

CHAPTER 22
WATER RESOURCES

SUBCHAPTER.

- 2. ALLOCATION AND USE GENERALLY.
- 4. ABANDONED OR UNUSED ARTESIAN WELLS.
- 5. WATER DEVELOPMENT PROJECTS GENERALLY.
- 8. ARKANSAS WATER RESOURCES COST SHARE FINANCE ACT.
- 9. ARKANSAS GROUNDWATER PROTECTION AND MANAGEMENT ACT.
- 10. ARKANSAS WETLANDS MITIGATION BANK ACT.
- 12. SPARTA AQUIFER CRITICAL GROUNDWATER COUNTIES' REMEDIATION ACT.
- 13. REVENUE BONDS FOR WATER RESOURCES.

SUBCHAPTER 2 — ALLOCATION AND USE GENERALLY

SECTION.

- 15-22-204. Penalties — Enforcement.
- 15-22-205. Powers of commission regard-
ing waters.
- 15-22-206. Procedure for making rules
and orders — Meetings.
- 15-22-207. Administration of oath to wit-
nesses.

SECTION.

- 15-22-209. Appellate review.
- 15-22-221. Delegation of allocation au-
thority.
- 15-22-222. Minimum stream flows.
- 15-22-224. Appointment of receiver —
Definitions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-22-204. Penalties — Enforcement.

- (a)(1) Any person who violates any provision of this subchapter shall be guilty of a misdemeanor and subject to imprisonment not to exceed six (6) months or a fine not to exceed ten thousand dollars (\$10,000), or both.
- (2) For a continuing offense, each day during which the offense is committed shall be considered a separate violation.
- (b) The Arkansas Natural Resources Commission shall enforce its rules and orders by any or all of the following means:
 - (1) Revocation of any permit or suspension from any program administered by the commission;
 - (2) Suit for injunction or for damages, or both; and

(3) Civil penalties not to exceed ten thousand dollars (\$10,000).

(c) All penalties received shall go to the Arkansas Water Development Fund.

History. Acts 1957, No. 81, § 13; 1969, No. 217, § 16; A.S.A. 1947, § 21-1313; Acts 1989, No. 258, § 2; 1991, No. 786, § 16; 2019, No. 315, § 1129.

Amendments. The 2019 amendment substituted “rules” for “regulations” in the introductory language of (b).

15-22-205. Powers of commission regarding waters.

(a) The Arkansas Natural Resources Commission shall have the power to:

(1) Issue permits for the construction of dams to impound water;

(2) Issue certificates of registration of water diverted from streams; and

(3) Make allocations among persons taking water from streams during periods of shortage, to the extent and in the manner provided by law.

(b) To that end, the commission shall conduct hearings and promulgate rules and orders under the procedure prescribed in this subchapter.

History. Acts 1957, No. 81, § 4; 1963, No. 14, § 18; 1969, No. 180, § 2; 1985, No. 475, § 1; A.S.A. 1947, § 21-1304; Acts 2019, No. 315, § 1130.

Amendments. The 2019 amendment deleted “regulations” following “rules” in (b).

15-22-206. Procedure for making rules and orders — Meetings.

(a)(1)(A) No rule or order, including a change, renewal, or extension thereof, shall be made by the Arkansas Natural Resources Commission except after reasonable notice and public hearing with respect thereto.

(B) If matters to be considered at a meeting are of general application throughout the state, the meeting shall be held in Little Rock, and notice with respect thereto shall be published in a newspaper of general circulation throughout the state.

(C) If the purpose of the meeting relates only to waters within one (1) county, that meeting shall be held in the county involved, and notice of the meeting shall be published in a newspaper of general circulation in that county.

(D) If the purpose of the meeting is with respect to waters in more than one (1) county, the meeting shall be held in one (1) of those counties, and notice shall be published in one (1) or more newspapers which together have general circulation in all of the counties involved.

(2) The notice, with respect to any meeting, shall state the time and place at which the meeting will be held and the matters to be considered by the commission at that meeting.

(b)(1) If the commission elects to give notice to any person by personal service, the service shall be made by the county sheriff of the county in which the meeting is to be held, by one (1) of his or her deputies, or by any agent of the commission.

(2) Proof of service shall be by the affidavit of the person making personal service.

(c)(1) Each rule and order made by the commission shall be in writing and shall be entered in full in a book to be kept by the commission for such a purpose. The book shall be a public record and be open to inspection at all times during reasonable office hours.

(2) A copy of any such rule or order, certified by a member of the commission or the Director of the Arkansas Natural Resources Commission, shall be received in evidence in all courts of this state with the same effect as the original.

History. Acts 1957, No. 81, § 5; 1985, No. 475, § 2; A.S.A. 1947, § 21-1305; Acts 2019, No. 315, §§ 1131, 1132.

Amendments. The 2019 amendment deleted “regulation” following “rule” in (a)(1)(A), (c)(1), and (c)(2).

15-22-207. Administration of oath to witnesses.

Any member of the Arkansas Natural Resources Commission, or the commission’s designee, may administer an oath to any witness in any hearing, investigation, or proceeding under the provisions of this subchapter.

History. Acts 1957, No. 81, § 3; 1963, No. 14, § 18; A.S.A. 1947, § 21-1303; Acts 2019, No. 910, § 76.

Amendments. The 2019 amendment

substituted “the commission’s designee, may” for “the Executive Director of the Arkansas Natural Resources Commission or attorney shall have power to”.

15-22-209. Appellate review.

Any person affected by any rule or order made by the Arkansas Natural Resources Commission or action taken may obtain review of such an action pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1957, No. 81, § 12; 1969, No. 180, § 5; A.S.A. 1947, § 21-1312; Acts 1989, No. 258, § 3; 2019, No. 315, § 1133.

Amendments. The 2019 amendment deleted “regulation” following “rule”.

15-22-221. Delegation of allocation authority.

(a) The Arkansas Natural Resources Commission may delegate the power to allocate water during times of shortage, as provided in this subchapter, to conservation districts and regional water districts.

(b)(1) A district to which the commission has delegated its authority to allocate water during shortages shall have all powers under this subchapter and shall be governed by the procedures set out in this subchapter.

(2) The commission shall provide technical assistance and shall establish guidelines which shall be followed by districts to which the commission has delegated powers.

(c)(1) The commission shall have all the necessary power to effectuate this delegation, including, but not limited to, the power to determine disputes between, approve or disapprove regulations or rules of, and hear appeals from decisions of districts to which the commission has delegated powers.

(2) The commission may reserve any or all power in itself and may withdraw its delegation of power at any time.

History. Acts 1989, No. 469, § 6; 2019, inserted “or rules” following “regulations” in (c)(1).
No. 315, § 1134.

Amendments. The 2019 amendment

15-22-222. Minimum stream flows.

(a) The Arkansas Natural Resources Commission shall establish and enforce minimum stream flows for the protection of instream water needs.

(b)(1) Prior to the establishment of minimum stream flows, the Arkansas Natural Resources Commission shall notify by certified mail, return receipt requested, the Arkansas State Game and Fish Commission, the Division of Environmental Quality, and any other interested state boards and commissions.

(2) Within thirty (30) days of receipt of notice, the Arkansas State Game and Fish Commission and the division shall file written comments with the Arkansas Natural Resources Commission.

(c) In establishing minimum stream flows, the Arkansas Natural Resources Commission shall follow the procedure for rulemaking, including publishing notice and the conducting of a public hearing.

(d) Nothing in this section shall be construed to override any other duties or powers of the Arkansas Natural Resources Commission.

History. Acts 1989, No. 469, § 5; 2019, substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in (b)(1) and (b)(2).
No. 910, § 3062.

Amendments. The 2019 amendment

15-22-224. Appointment of receiver — Definitions.

(a) As used in this section:

(1) “Adequate financial operation” means operation of a public water system or public sewer system in such a manner that the system has and will have the ability to provide sufficient funds for viable current and future operations, including without limitation:

- (A) Operating costs;
- (B) Debt repayment;
- (C) Replacement costs; and
- (D) Depreciation costs;

(2) "Adequate managerial operation" means operation of a public water system or public sewer system by persons having sufficient leadership, knowledge, skills, and abilities to manage the system for current and long-term viable operations of the system, including without limitation:

- (A) A functioning governing body; and
- (B) Adequate employee staffing;

(3) "Adequate technical operation" means operation of a public water system or public sewer system with sufficient facilities, equipment, and personnel for current and long-term viable operations of the system, including without limitation:

- (A) Employment of licensed operators;
- (B) Timely repair or replacement of equipment; and
- (C) Planning for long-term system continuation;

(4) "Public sewer system" means a sewer collection or treatment system subject to regulation under the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., as existing on January 1, 2011, or the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., which is owned by a municipal corporation, a governmental corporation, or a nonprofit corporation, including without limitation:

- (A) A municipality;
- (B) A public facilities board;
- (C) A public water authority;
- (D) A water association;
- (E) A regional water distribution district;
- (F) A rural development authority;
- (G) A sanitation authority;
- (H) An improvement district; or
- (I) A regional wastewater treatment district; and

(5) "Public water system" means a water system subject to regulation under the Safe Drinking Water Act, 42 U.S.C. § 300f, as existing on January 1, 2011, which is owned by a municipal corporation, a governmental corporation, or a nonprofit corporation, including without limitation:

- (A) A municipality;
- (B) A public facilities board;
- (C) A public water authority;
- (D) A water association;
- (E) A regional water distribution district;
- (F) A rural development authority;
- (G) A sanitation authority;
- (H) An improvement district;
- (I) A regional wastewater treatment district; or
- (J) A consolidated waterworks.

(b)(1) Except as provided in subsection (g) of this section, a court having jurisdiction in any proper action, upon application of the Arkansas Natural Resources Commission or its successor or successors, may appoint a receiver to take charge of the public water system or

public sewer system if a public water system or public sewer system for a period of not less than six (6) months:

(A) Has failed to provide for the adequate financial operation of the public water system or public sewer system, provide for the adequate managerial operation of the public water system or public sewer system, or provide for the adequate technical operation of the public water system or public sewer system; or

(B) Has failed to comply with:

(i) Rules of the Department of Health or its successor or successors concerning drinking water standards and public water systems; or

(ii) The Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., or rules promulgated in support of the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., by the Arkansas Pollution Control and Ecology Commission or any successor or successors and enforced by the Division of Environmental Quality or any successor or successors.

(2) The receiver may:

(A) Administer the public water system or public sewer system;

(B) Make improvements to the public water system or public sewer system;

(C) Operate and maintain the public water system or public sewer system;

(D) Charge and collect rates and fees for the public water system or public sewer system sufficient to provide for the payment of:

(i) Any costs of receivership;

(ii) Debt service on any indebtedness secured by revenues of the public water system or public sewer system; and

(iii) Operation and maintenance expenses and costs of improvements to the public water system or public sewer system; and

(E) Apply the income and revenues of the public water system or public sewer system in conformity with Arkansas law.

(c) Notwithstanding any Arkansas law to the contrary, the Arkansas Natural Resources Commission may be appointed as receiver under this section.

(d)(1)(A) Before entering upon his or her duties, the receiver shall be sworn to perform them faithfully.

(B) With one (1) or more sureties approved by the court, the receiver shall execute a bond to the person and in such sum as the court shall direct, to the effect that he or she will:

(i) Faithfully discharge the duties of receiver in the action; and

(ii) Obey the orders of the court.

(2) Subdivision (d)(1) of this section does not apply if the Arkansas Natural Resources Commission is appointed as receiver under this section.

(e) The receiver may, under the control of the court:

(1) Bring and defend actions;

(2) Take and keep possession of the property of the public water system or public sewer system;

- (3) Receive rents;
- (4) Collect debts;
- (5) Sell or otherwise dispose of all or part of the real or personal property of a public water system or public sewer system; and
- (6) Take other actions concerning the public water system or public sewer system and its property as the court may authorize.

(f) Upon application by the Arkansas Natural Resources Commission to a court having jurisdiction and upon approval of the court, the receiver may sell, transfer, convey, or donate the public water system or public sewer system to, or merge the public water system or public sewer system with, another public water system or public sewer system.

(g) Upon certification by the department that the public water system's or public sewer system's operation represents an immediate public health threat or certification by the division that the public sewer system is being operated in a manner to allow the discharge of pollutants in quantities unacceptable under applicable permits or state water quality standards and posing an imminent threat to public health, a court having jurisdiction in any proper action may, upon application of the Arkansas Natural Resources Commission, immediately appoint a receiver to take charge of the public water system or public sewer system.

History. Acts 2011, No. 703, § 1; 2019, No. 910, §§ 3063, 3064.

Amendments. The 2019 amendment substituted "Division of Environmental

Quality" for "Arkansas Department of Environmental Quality" in (b)(1)(B)(ii) and (g).

SUBCHAPTER 4 — ABANDONED OR UNUSED ARTESIAN WELLS

SECTION.

15-22-401. Scope.

15-22-401. Scope.

This subchapter applies to artesian wells abandoned before March 29, 1949.

History. Acts 1949, No. 478, § 8; A.S.A. 1947, § 21-1108; Acts 2017, No. 374, § 31.

Amendments. The 2017 amendment

substituted "before March 29, 1949" for "prior to passage and approval of this act"; and made stylistic changes.

SUBCHAPTER 5 — WATER DEVELOPMENT PROJECTS GENERALLY

SECTION.

15-22-503. Arkansas Water Plan.

15-22-505. Powers and duties of commission generally.

15-22-503. Arkansas Water Plan.

(a) Under such rules as it may adopt, the Arkansas Natural Resources Commission is charged with the duty of preparing, developing, formulating, and engaging in a comprehensive program for the orderly development and management of the state's water and related land resources, to be referred to as the "Arkansas Water Plan".

(b) The Arkansas Natural Resources Commission shall be governed in its preparation of the plan by a regard for the public interest of the entire state. It shall direct its efforts to protect the water resources of the state, including boundary waters, against unwarranted encroachments by other states and the United States upon its sovereignty with respect thereto. Any attempt to transport or export any of such waters against the best interests of the State of Arkansas and its inhabitants shall be strongly opposed.

(c) The plan shall give due consideration to existing water rights of the state and its inhabitants and shall take into account modes and procedures for the equitable adjustment of individual water rights affected by the implementation of the plan. The plan shall be the state policy for the development of water and related land resources in this state and, from time to time, shall be altered, amended, or repealed to the extent necessary for the proper administration of the state's water resources.

(d) All state agencies, commissions, and political subdivisions shall take the plan into consideration in all matters pertaining to the discharge of their respective duties and responsibilities as they may affect the comprehensive plan, but nothing in the plan shall be construed as to impair any water right existing under the laws of this state.

(e)(1) No political subdivision or agency of the state shall spend any state funds on or engage in any water development project, excluding any water development project in which game protection funds or federal or state outdoor recreation assistance grant funds are to be spent, provided that such a project will not diminish the benefits of any existing water development project, until a preliminary survey and report therefor which sets forth the purpose of the water development project, the benefits to be expected, the general nature of the works of improvement, the geographic area to be served by the water development project, the necessity, feasibility, and the estimated cost thereof is filed with the commission and is approved by the Arkansas Natural Resources Commission to be in compliance with the plan.

(2) Upon approval of the report, no political subdivision or agency board or commission thereof filing the report or designated by the Arkansas Natural Resources Commission as having responsibility for constructing, operating, managing, and maintaining the improvement shall be dissolved, merged, abolished, or otherwise changed during the life of the water development project without prior approval of the Arkansas Natural Resources Commission.

History. Acts 1969, No. 217, § 2; 1973, No. 584, § 2; A.S.A. 1947, § 21-1318; Acts 1989, No. 469, § 3; 2007, No. 691, § 2; 2019, No. 315, § 1135.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (a).

15-22-505. Powers and duties of commission generally.

In addition to such other powers, authorities, and duties as are provided to it by law, the Arkansas Natural Resources Commission shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this subchapter, including, but not limited to, the following powers and duties:

(1) To be responsible for the proper distribution and allocation of water stored in the ownership of the state as developed by the commission under the provisions of this subchapter;

(2) To approve a reasonable method of delivery and measurement of water sold from storage;

(3) To sell, assign, or lease water or water storage capacity at costs designed to return the investment to the state and to sufficiently discharge as they mature all obligations pertaining to the principal of and interest on any water development bonds issued by the commission;

(4)(A) To make and execute contracts for financial assistance to political subdivisions of the State of Arkansas which are engaged as local sponsors of any water development project which is an integral part of the Arkansas Water Plan.

(B) The financial assistance shall be funded by the Arkansas Water Development Fund established under § 15-22-507 and may consist of long-term loans designed to return the investment to the state, or the financial assistance may consist of the underwriting of local assurances for the payment of water development project costs;

(5) To acquire by lease, purchase, gift, devise, or otherwise water rights, water storage capacity, and the facilities of any water development project, including lands, rights-of-way, and easements;

(6)(A) To invest any cash funds of the fund by converting the funds into bonds of the United States or into certificates of deposit in banks or savings and loan associations qualifying for the deposit of public funds.

(B) However, if any condition shall arise whereof the investment of federal funds is restricted by the United States Government, such federal funds may not be invested;

(7)(A) To adopt and enforce such rules as are necessary for the proper and efficient administration of this subchapter.

(B) However, all rules adopted by the commission are subject to judicial review in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and

(8) To institute a civil action in the Pulaski County Circuit Court or in the circuit court of the county where the water development project is located to restrain any political subdivision or agency of the state

from spending any state funds from any source on or engaging in any water development project which has not been approved as in compliance with the plan, to compel compliance with the provisions of this subchapter, and to recover all costs and expenses of the commission and any inappropriately spent state funds.

History. Acts 1969, No. 217, § 5; 1973, No. 584, § 4; A.S.A. 1947, § 21-1321; Acts 1989, No. 469, § 4; 1997, No. 360, § 2; 2019, No. 315, § 1136.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (7)(A) and (7)(B).

SUBCHAPTER 8 — ARKANSAS WATER RESOURCES COST SHARE FINANCE ACT

SECTION.

15-22-804. Duties of commission.

15-22-806. Loans or grants — Eligibility
— Applications — Awards.

15-22-804. Duties of commission.

The Arkansas Natural Resources Commission shall:

(1) Administer the loan and grant programs authorized under this subchapter;

(2) Take necessary action to ensure that the funds are used for the purposes established in this subchapter and in accordance with state and federal laws; and

(3) In accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., promulgate such rules and procedures necessary for the operation of this program.

History. Acts 1989, No. 257, § 4; 2019, No. 315, § 1137.

deleted “and regulations” following “rules” in (3).

Amendments. The 2019 amendment

15-22-806. Loans or grants — Eligibility — Applications — Awards.

(a)(1) Local governments who have entered into or who are attempting to enter into a cooperative agreement for cost-sharing to finance a water resources development project are eligible to apply for a loan or grant under this subchapter.

(2) Combinations of local governments may apply jointly for loans or grants authorized under this subchapter in accordance with the Interlocal Cooperation Act, § 25-20-101 et seq.

(b) The final award of the loan or grant for cost-sharing purposes shall be made contingent upon actual receipt of federal funding for the federal share of the water resources development project.

(c) The Arkansas Natural Resources Commission, by rule, shall specify the form and style of any forms needed for application by the local governments for loans or grants.

(d)(1) Beginning each January 1, the commission shall take applications from the state and local governments for grants and loans to be

awarded for water resources development projects for the next fiscal year.

(2) The annual deadline for loan or grant application shall be March 31 of each year.

(3) The commission shall award the grants and loans for the water resources development projects, contingent on the availability of funds, by June 30 of each year.

History. Acts 1989, No. 257, § 6; 1991, No. 786, § 19; 2019, No. 315, § 1138.

Amendments. The 2019 amendment substituted “rule” for “regulation” in (c).

SUBCHAPTER 9 — ARKANSAS GROUNDWATER
PROTECTION AND MANAGEMENT ACT

SECTION.	SECTION.
15-22-904. Powers of the commission.	15-22-906. Groundwater protection program.
15-22-905. Powers of commission — Limitations.	

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-22-904. Powers of the commission.

The Arkansas Natural Resources Commission shall have all powers necessary to effectuate this subchapter, including the power to:

- (1) Promulgate rules for groundwater classification and aquifer use, well spacing, issuance of groundwater rights within critical groundwater areas, and assessment of fees;

(2) Issue subpoenas for any witness to require attendance and testimony and production of relevant books, papers, or other records in any proceeding before the commission;

(3) Administer an oath to any witness in any hearing, investigation, or proceeding before the commission;

(4) At reasonable times, enter upon property for purposes of conducting investigations, studies, or enforcing this subchapter;

(5) Reduce or suspend notice and hearing requirements under this subchapter in times of an emergency;

(6) Issue orders to implement or enforce any of the provisions of this subchapter or regulations or rules under this subchapter;

(7) Delegate any and all powers under this subchapter to the Director of the Arkansas Natural Resources Commission or his or her designee;

(8) Delegate any powers under this subchapter to districts within a critical groundwater area;

(9) Provide technical assistance and establish guidelines which shall be followed by districts which have been granted powers under this subchapter;

(10) Resolve disputes between, approve rules of, and hear appeals from decisions of districts to which the commission has delegated powers; and

(11) Provide cost share assistance from the Arkansas Water Development Fund not to exceed forty percent (40%) to persons for the installation of approved water conservation and development practices.

History. Acts 1991, No. 154, § 11; deleted “and regulations” following “rules” in (1); inserted “or rules” in (6); and substituted “rules” for “regulations” in (10).
1991, No. 342, § 11; 2019, No. 315, §§ 1139-1141.

Amendments. The 2019 amendment

15-22-905. Powers of commission — Limitations.

The following provisions shall limit the Arkansas Natural Resources Commission’s powers under this subchapter:

(1)(A) There will be no reduction or limitation of the withdrawal of groundwater from existing wells in an alluvial aquifer for which a water right is grandfathered under the provisions of § 15-22-910(a)(1) unless alternative surface water supplies are available or can be made available at a cost to the person no greater than the operating cost of the person’s wells within the critical groundwater area, including depreciation costs over the life of the well.

(B) There shall be no reduction or limitation of the withdrawal of groundwater from existing wells in a sustaining aquifer for which a water right is grandfathered under the provisions of § 15-22-910(a)(1) unless alternative surface supplies are available;

(2)(A) In an alluvial aquifer, there will be no reduction or limitation of the withdrawal of groundwater from wells for which a water right has been issued under § 15-22-910 and for which the person holding the right can demonstrate:

(i) A reduction of twenty percent (20%) of his or her use of groundwater by either institution of water conservation measures or conversion to surface supplies. The demonstrated reduction must be based on the use reported in water year 1986 or later; or

(ii) The implementation of a water conservation plan employing generally accepted water conservation practices approved by the commission.

(B) In sustaining aquifers, the commission may consider voluntary reductions, water use efficiencies, and implementation of water

conservation measures in determining limitations or reduction of withdrawals;

(3) There will be no regulation of the withdrawal of groundwater from existing or proposed wells which have a maximum potential flow rate of less than fifty thousand gallons (50,000 gals.) per day;

(4) There shall be no regulation of the withdrawals of groundwater from individual household wells used exclusively for domestic use;

(5) With respect to replacement wells:

(A)(i) The owner of an existing well may construct a replacement well after abandoning the existing well.

(ii) To transfer a water right to a replacement well the owner need only submit to the commission notice of construction of a replacement well stating the location and ownership of the original well and replacement well and other relevant information required by the commission; and

(B) The original well must be converted to a nonregulated use or plugged in the manner prescribed by the commission; and

(6) Marketers of bottled water and public water supply systems shall at no time be restricted in the place of use of groundwater.

History. Acts 1991, No. 154, § 6; 1991, No. 342, § 6; 2001, No. 1426, §§ 2, 3; 2017, No. 374, §§ 32, 33.

Amendments. The 2017 amendment, substituted “surface water supplies” for “surface supplies” in (1)(A); substituted

“With respect to replacement wells” for “Replacement Wells” in the introductory language of (5); substituted “original well and replacement well” for “original and replacement wells” in (5)(A)(ii); and made stylistic changes.

15-22-906. Groundwater protection program.

(a) In order to protect the groundwater of the state, the Arkansas Natural Resources Commission shall develop a comprehensive groundwater protection program.

(b) This shall contain, as a minimum, the following components as the commission deems necessary:

(1) Assessment and monitoring of the availability of groundwater and its quality;

(2) The classification of groundwater and establishment of groundwater criteria and standards; and

(3) The management of groundwater pursuant to this subchapter, including the issuance of water rights, protection of groundwater quality, and establishment of an education and information program.

(c)(1) This program shall not be inconsistent with nor shall it preempt or supersede any regulatory authority currently or in the future vested with the Division of Environmental Quality, the State Plant Board, or the Department of Health.

(2) However, no permit or prior authorization from the division, the board, or the department shall be required to implement the provisions of this subchapter.

History. Acts 1991, No. 154, § 4; 1991, No. 342, § 4; 1999, No. 1164, § 132; 2019, No. 910, § 3065.

Amendments. The 2019 amendment

substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in (c)(1) and (c)(2).

SUBCHAPTER 10 — ARKANSAS WETLANDS MITIGATION BANK ACT

SECTION.

- 15-22-1003. Definitions.
- 15-22-1004. Mitigation banks — Acquisition and protection.
- 15-22-1005. Program for mitigation banks — Program criteria.
- 15-22-1006. Resource values and credits for mitigation banks — Use and withdrawal of credits — Annual evaluation of system.

SECTION.

- 15-22-1007. Monitoring activities in mitigation banks — Reports.
- 15-22-1009. Consultation and cooperation with other agencies and interested parties — State agencies to use mitigation bank.
- 15-22-1012. Use of funds.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-22-1003. Definitions.

As used in this subchapter:

(1) “Aquatic resources” means ecological functions, services, and values provided by the waters of the United States that are subject to compensatory mitigation under § 404 of the Clean Water Act, 33 U.S.C. § 1344, and §§ 9 and 10 of the Rivers and Harbors Act, 33 U.S.C. §§ 401 and 403, as they existed on January 1, 2007, and Exec. Order No. 11,990 issued May 24, 1977, 42 Fed. Reg. 26,961;

(2) “Commission” means the Arkansas Natural Resources Commission;

(3) “Credit” means a numerical value that represents the aquatic resources functions and value of a site;

(4) [Repealed.]

(5) “Mitigation bank” means a publicly owned and managed aquatic resources site created or restored in accordance with this subchapter to compensate for unavoidable adverse impacts due to activities that otherwise comply with the requirements of the Federal Water Pollution

Control Act, 33 U.S.C. §§ 1251–1376, § 404 of the Clean Water Act, 33 U.S.C. § 1344, and §§ 9 and 10 of the Rivers and Harbors Act, 33 U.S.C. §§ 401 and 403, as they existed on January 1, 2007, and Exec. Order No. 11,990 issued May 24, 1977, 42 Fed. Reg. 26,961, or other laws requiring mitigation;

(6) “Permit action” means activity under a specific dredge or fill permit requested or issued pursuant to § 404 of the Federal Water Pollution Control Act, 33 U.S.C. § 1344, or any other action requiring mitigation; and

(7) [Repealed.]

History. Acts 1995, No. 562, § 2; 1997, No. 390, § 1; 1999, No. 1164, § 133; 2007, No. 476, § 2; 2017, No. 707, § 35; 2019, No. 910, §§ 77, 78; 2021, No. 501, § 4.

Amendments. The 2017 amendment substituted “Arkansas Department of Transportation” for “Arkansas State Highway and Transportation Department” in (7)(C).

The 2019 amendment repealed (4); substituted “means” for “is” in the introduc-

tory language of (7); deleted (7)(A) and redesignated the remaining subdivisions accordingly; substituted “Division of Arkansas Heritage” for “Department of Arkansas Heritage” in (7)(C); and substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in (7)(D).

The 2021 amendment deleted (7).

15-22-1004. Mitigation banks — Acquisition and protection.

The Arkansas Natural Resources Commission or the commission’s designee may:

(1) Set a sales price for credits in the mitigation bank on behalf of the commission;

(2) Acquire or accept title, including easements, from willing sellers or donors to approved lands, in the name of the commission, suitable for use in mitigation banks;

(3) Pay costs incurred for alterations needed to create or restore aquatic resources areas for purposes of carrying out the provisions of this subchapter;

(4) Authorize payment of administrative, research, or scientific monitoring expenses of the commission in carrying out the provisions of this subchapter;

(5) Receive funds from whatever source for the voluntary acquisition of a mitigation bank and interests therein;

(6) Enter into contracts with state and federal agencies, nonprofit corporations, or other persons for the management of mitigation bank properties; and

(7)(A) Upon satisfactory establishment of a functioning aquatic resources site, convey mitigation bank properties to other appropriate state agencies for management.

(B) The commission shall reserve such interest in the mitigation bank property as necessary to protect the aquatic resources function and values.

History. Acts 1995, No. 562, § 4; 2007, No. 476, § 3; 2019, No. 910, § 79; 2021, No. 501, § 5.

Amendments. The 2019 amendment deleted “Powers of the executive director” at the end of the section heading; and rewrote the introductory language.

The 2021 amendment deleted “in consultation with the Wetlands Technical Advisory Committee” following “designee” in the introductory language.

15-22-1005. Program for mitigation banks — Program criteria.

(a) In accordance with the provisions of this subchapter, upon the approval of the Arkansas Natural Resources Commission, the Department of Agriculture shall initiate and implement a program for mitigation banks.

(b)(1) The commission shall adopt, by rule, standards and criteria for the site selection process, operation, and evaluation of mitigation banks.

(2) Criteria to be considered shall include, but need not be limited to:

(A) Historical aquatic resources trends, including the estimated rate of current and future losses of the respective types of aquatic resources;

(B) The contributions of the aquatic resources to:

(i) Wildlife, migratory birds, and resident species;

(ii) Commercial and sport fisheries;

(iii) Surface and groundwater quality and quantity and flood moderation;

(iv) Habitat and species diversity;

(v) Outdoor recreation, including enhancement of scenic waterways; and

(vi) Scientific and research values;

(C) Location of a mitigation bank in relation to the:

(i) Location of permit actions where mitigation banks might be used;

(ii) Probability of establishing successful mitigation bank projects; and

(iii) Maximization of aquatic resources functions and values; and

(D) Regional economic needs.

(c) For each mitigation bank, the Department of Agriculture shall establish a well-defined plan, including preliminary objectives, an inventory of resource values, and an evaluation and monitoring program.

(d) Lands for the mitigation bank shall not be acquired by condemnation.

History. Acts 1995, No. 562, §§ 4, 5; 2007, No. 476, § 4; 2019, No. 910, § 80.

Amendments. The 2019 amendment

substituted “Department of Agriculture” for “Executive Director of the Arkansas Natural Resources Commission” in (a).

15-22-1006. Resource values and credits for mitigation banks — Use and withdrawal of credits — Annual evaluation of system.

(a) For each mitigation bank, the Director of the Arkansas Natural Resources Commission shall establish a system of aquatic resources values and credits consistent with compensatory mitigation under § 404 of the Clean Water Act, 33 U.S.C. § 1344, and §§ 9 and 10 of the Rivers and Harbors Act, 33 U.S.C. §§ 401 and 403, as they existed on January 1, 2007, and Exec. Order No. 11,990 issued May 24, 1977, 42 Fed. Reg. 26,961.

(b) The director may sell credits from any mitigation bank site prior to the establishment of aquatic resources functions if, upon review of the site plan, the executive director determines that the implementation of the plan will likely result in the established aquatic resources function on the site.

(c) The price for any credit shall be set at an amount that will compensate the state for all of the costs and expenses the state has incurred and is expected to incur in establishing and maintaining that portion of the mitigation bank.

(d) The director annually shall:

(1) Evaluate the aquatic resources functions and values created within each aquatic resources mitigation bank site; and

(2)(A) Compare the current aquatic resources functions and values with the aquatic resources functions and values that the director anticipated the mitigation bank would provide.

(B) If the director finds any significant disparity between the actual and anticipated aquatic resources functions and values, the director shall:

(i) Suspend the withdrawal of credits to that mitigation bank; or

(ii) Take prompt action to assure that the anticipated aquatic resources functions and values are established.

History. Acts 1995, No. 562, § 6; 1997, No. 390, § 2; 2007, No. 476, § 5; 2021, No. 501, § 6.

Amendments. The 2021 amendment substituted "Director of the Arkansas

Natural Resources Commission" for "Executive Director of the Arkansas Natural Resources Commission, in consultation with the Wetlands Technical Advisory Committee" in (a).

15-22-1007. Monitoring activities in mitigation banks — Reports.

(a) The Arkansas Natural Resources Commission shall maintain a record of actions for each mitigation bank and conduct monitoring of mitigation banks with moneys set aside for that purpose in the Arkansas Water Development Fund.

(b) [Repealed.]

History. Acts 1995, No. 562, § 7; 2007, No. 476, § 6; 2019, No. 910, § 81; 2021, No. 501, § 7.

Amendments. The 2019 amendment substituted “Arkansas Natural Resources Commission” for “Executive Director of the Arkansas Natural Resources Commis-

sion” in (a); and, in (b), substituted “commission” for “executive director” and deleted “Arkansas Natural Resources Commission and the” preceding “Wetlands Technical Advisory Committee”.

The 2021 amendment deleted (b).

15-22-1009. Consultation and cooperation with other agencies and interested parties — State agencies to use mitigation bank.

(a) The provisions of this subchapter shall be carried out by the Arkansas Natural Resources Commission.

(b) All public agencies requiring permit action mitigation, when practicable, shall use mitigation banks created under this subchapter.

History. Acts 1995, No. 562, § 9; 2007, No. 476, § 8; 2019, No. 910, § 82; 2021, No. 501, § 8.

Amendments. The 2019 amendment substituted “Consultation and cooperation” for “Executive director to consult and cooperate” in the section heading; and

substituted “Arkansas Natural Resources Commission” for “Executive Director of the Arkansas Natural Resources Commission” in (a).

The 2021 amendment deleted “in consultation with the Wetlands Technical Advisory Committee” at the end of (a).

15-22-1012. Use of funds.

The Arkansas Natural Resources Commission may use the moneys in the Arkansas Water Development Fund for the following purposes:

(1) For the voluntary acquisition of land suitable for use in mitigation banks;

(2) To pay for costs incurred for alterations needed to create, restore, or enhance aquatic resources areas for purposes of carrying out the provisions of this subchapter;

(3) For payment of administrative, research, or scientific monitoring expenses of the commission in carrying out the provisions of this subchapter;

(4) To repay financial assistance received from state financial assistance programs, including interest and applicable fees, used for the purposes of carrying out the intent of this subchapter; and

(5) Any other purpose related to wetland, stream, deep water aquatic habitat, or aquatic resources creation or restoration.

History. Acts 1995, No. 562, § 12; 2007, No. 476, § 10; 2019, No. 910, § 83.

Amendments. The 2019 amendment substituted “Arkansas Natural Resources

Commission” for “Executive Director of the Arkansas Natural Resources Commission” in the introductory language.

SUBCHAPTER 11 — SAFE DRINKING WATER FUND

RESEARCH REFERENCES

ALR. Validity, Construction, and Application of Safe Drinking Water Act's Provisions Related to Public Water Supply Enforcement, 42 U.S.C. §§ 300g to 300g-5 and Related Regulations, 19 A.L.R. Fed. 3d Art. 6 (2017).

Validity, Construction, and Application of Part C of the Safe Drinking Water Act Relating to Protection of Underground Sources of Drinking Water, 42 U.S.C. §§ 300h to 300h-8, and Related Regulations, 20 A.L.R. Fed. 3d Art. 12 (2017).

15-22-1101. Definitions.

RESEARCH REFERENCES

ALR. Validity, Construction, and Application of Lead Limitations and “Lead and Copper” Rule of Safe Drinking Water Act. 16 A.L.R. Fed. 3d Art. 3 (2016).

Citizen’s Cause of Action Under Safe Drinking Water Act, 42 U.S.C. § 300j-8. 16 A.L.R. Fed. 3d Art. 4 (2016).

SUBCHAPTER 12 — SPARTA AQUIFER CRITICAL GROUNDWATER COUNTIES’
REMEDATION ACT

SECTION.
15-22-1212. Powers of county conservation board.

SECTION.
15-22-1214. Water conservation levy.

15-22-1212. Powers of county conservation board.

- (a) Each Sparta Aquifer critical groundwater county conservation board shall have the power to:
- (1) Sue and be sued and complain and defend in the name of the board;
 - (2) Adopt a seal which may be altered at the board’s pleasure and use it as the board determines;
 - (3) Acquire, construct, and develop any water facilities;
 - (4) Withdraw, store, transport, treat, and distribute water and engage in activities related or appropriate thereto;
 - (5) Acquire, own, lease, and operate any lands, buildings, fixtures, equipment, personalty, and other properties, real, personal, or mixed, tangible or intangible, as may be appropriate to its powers and the purposes of this subchapter;
 - (6)(A) Sell and issue bonds secured by and payable from its revenues and enter into such trust indentures and other documents and undertakings as may be appropriate thereto. The bonds shall be payable over a period of not more than forty (40) years and shall bear interest at an interest rate or rates not to exceed that set forth in Arkansas Constitution, Amendment 65.

(B) The bonds shall be sold for such price and by such method as shall be determined by the board, and the bonds and interest thereon shall be exempt from all state, county, and municipal taxes;

(7) Apply the proceeds of revenue bonds and sales and use tax bonds issued by the county and municipalities within the county for the acquisition, construction, and development of water facilities, as may be agreed to by the county and such municipalities;

(8) Have and exercise the power of eminent domain for the purpose of acquiring lands, rights-of-way, and other properties necessary in the construction or operation of any water facilities in the manner now provided by the condemnation laws of this state for acquiring private property for public use;

(9) Accept gifts or grants of money, services, franchises, rights, privileges, licenses, rights-of-way, easements, or other property, real, personal, or mixed, tangible or intangible;

(10) Make any and all contracts necessary or convenient for the exercise of the powers granted in this subchapter, including, without limitation, contracts with other boards and with municipalities and counties;

(11) Fix, regulate, and collect rates, fees, rents, and other charges for water sold by the board and for the use of water facilities and for services furnished by the board, any such rates to be just, reasonable, and nondiscriminatory;

(12) Conduct its affairs within and without this state;

(13) Elect, appoint, or employ officers, agents, attorneys, engineers, and such other personnel as it shall deem necessary and to fix their compensation and to establish the use and application of the board's revenues;

(14) Enter upon private premises for the purpose of carrying out this subchapter, including a determination of the capacity of the Sparta Aquifer, and for compliance with the Department of Health rules concerning the health and safety of the water systems;

(15) Accept appropriations and grants from the State of Arkansas and from the United States upon such terms and conditions as may be imposed by law, rule, or regulation;

(16) Require that anyone drilling a water well into the Sparta Aquifer designated critical by the Arkansas Natural Resources Commission shall file a copy of the report required to be filed with the Commission on Water Well Construction pursuant to § 17-50-104 with the board;

(17) Require monitoring of all wells determined to be operated as registered water users or significant water users; and

(18) Exercise all powers necessary and appropriate to accomplish the improvement plan and such other powers as may be set forth in this subchapter or as may be necessary or appropriate to carry out its purposes and the purpose of this subchapter.

(b) Notwithstanding the powers conferred by this section, a board shall comply with the laws of this state regarding the acquisition, storage, transportation, distribution, treatment, or disposal of water.

(c) The board shall have the power, pursuant to appropriate agreement, to expend and invest the proceeds of bonds and other obligations, whether secured by revenues or taxes or otherwise, issued by the county or by any municipality in the county.

History. Acts 1999, No. 1050, § 12; “this subchapter”, substituted “Sparta 2017, No. 374, § 34; 2019, No. 315, Aquifer” for “Sparta well”, and deleted § 1142. “and regulations” following “rules”.

Amendments. The 2017 amendment, The 2019 amendment inserted “rule” in in (a)(14), deleted “the terms of” preceding (a)(15).

15-22-1214. Water conservation levy.

(a) The Sparta Aquifer critical groundwater county conservation board may levy and fix upon each registered water user and significant water user of aquifer water a conservation fee in an amount deemed appropriate by the board to discourage the withdrawal of aquifer water by registered water users and significant water users.

(b) However, when the board has extended an alternate water source to the property line of a major water user and the major water user does not connect to and begin using the alternate water source, the major water user may be assessed a conservation fee determined by the board, not to exceed one and five-tenths (1.5) times the board’s current rate for the alternate source per one thousand gallons (1,000 gals.) of aquifer water withdrawn, until the major water user connects to and uses the alternate water source.

History. Acts 1999, No. 1050, § 14; times the board’s current rate for the 2005, No. 1774, § 3; 2017, No. 632, § 1. alternate source” for “ninety-six cents

Amendments. The 2017 amendment substituted “one and five-tenths (1.5) (96¢)” in (b).

SUBCHAPTER 13 — REVENUE BONDS FOR WATER RESOURCES

SECTION.

15-22-1304. Gubernatorial approval.

15-22-1307. Bonds — Signature — Seal.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two

uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of

the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-22-1304. Gubernatorial approval.

(a) When gubernatorial approval is required by the provisions of the Internal Revenue Code, 26 U.S.C. § 1 et seq., as amended, or any other federal or state law, the Governor may approve the issuance of bonds by the Arkansas Natural Resources Commission upon receipt of written request for approval from the commission.

(b) The written request shall state that the commission has conducted a public hearing pursuant to appropriate public notice concerning the purposes for which the bonds are to be issued.

(c) The written request shall also summarize the comments made and questions posed at the public hearing.

History. Acts 2003, No. 598, § 1; 2019, No. 910, § 84.

Amendments. The 2019 amendment substituted "Arkansas Natural Resources

Commission" for "Executive Director of the Arkansas Natural Resources Commission" at the end of (a).

15-22-1307. Bonds — Signature — Seal.

(a) The bonds shall be executed by manual or facsimile signature of the Chair of the Arkansas Natural Resources Commission and the manual or facsimile signature of any other director or officer authorized to do so by resolution of the Arkansas Natural Resources Commission.

(b) If the officers whose signatures appear on the bonds shall cease to be officers before delivery of the bonds, their signatures, nevertheless, shall be valid and sufficient for all purposes.

(c) Each bond shall be impressed or imprinted with the seal of the commission.

History. Acts 2003, No. 598, § 1; 2019, No. 910, § 85.

Amendments. The 2019 amendment, in (a), deleted "the Executive Director of

the Arkansas Natural Resources Commission or" following "signature of", and substituted "Arkansas Natural Resources Commission" for "commission" at the end.

CHAPTER 23 RIVERS AND CREEKS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS WATERWAYS COMMISSION.
3. ARKANSAS NATURAL AND SCENIC RIVERS SYSTEM ACT.

SUBCHAPTER.

- 5. RED RIVER COMPACT.
- 8. OUACHITA RIVER COMMISSION.
- 9. ARKANSAS PORT PRIORITY IMPROVEMENT PROGRAM ACT.
- 10. BUFFALO RIVER CONSERVATION COMMITTEE.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

15-23-103. Lee Creek Development Au-
thorization Act of 1985.

SECTION.

15-23-104. Kings River.

15-23-103. Lee Creek Development Authorization Act of 1985.

(a) This section shall be known and may be cited as the “Lee Creek Development Authorization Act of 1985”.

(b)(1) Authority is granted to develop that portion of the Lee Creek Waterway located in Crawford County, commencing at the three and two-tenths-mile point of Lee Creek, measured from the point of confluence of Lee Creek and the Arkansas River, and continuing from the three and two-tenths-mile point to the common boundary between the states of Arkansas and Oklahoma.

(2)(A) The grant of authority for development as set forth in this subsection includes, but is not limited to, the authority to construct any bridge, causeway, dam, dike, or other structure necessary to the development of the designated portion of Lee Creek and the impoundment of water thereon.

(B) However, the appropriate permits for the construction of a structure described in subdivision (b)(2)(A) of this section shall be obtained from the responsible agencies of the State of Arkansas as otherwise provided by law.

(c) Those portions of Lee Creek affected by subsection (b) of this section are found to be solely within the State of Arkansas.

History. Acts 1985, No. 263, §§ 1-3; A.S.A. 1947, § 21-1317n; Acts 2017, No. 374, § 35.

substituted “a structure described in subdivision (b)(2)(A) of this section shall be” for “such structures are” in (b)(2)(B).

Amendments. The 2017 amendment

15-23-104. Kings River.

(a) The General Assembly finds that the portion of Kings River located in Madison County possesses unique and outstanding scenic, recreational, botanical, geological, historical, piscine, faunal, and other outdoor values of great present and potential benefit to the people of the State of Arkansas, and the preservation of its wild, unpolluted, and natural state is essential for this and future generations.

(b)(1) Nothing in this section shall affect the jurisdictions or responsibilities of state agencies or political subdivisions of the State of Arkansas in the enforcement of laws with respect to water, fish, and wildlife and other related resources.

(2) Nor shall the provisions of this subchapter be deemed to in any way impair or interfere with the continuation of the présent agricultural uses of lands along the Kings River, including the raising of crops and the grazing of livestock.

(c) In furtherance of the purposes set forth in subsection (a) of this section, it shall be unlawful for:

(1)(A) Any person, firm, or corporation to construct any permanent dam or other structure that would impound waters of the principal bed of the Kings River.

(B) The establishment of a water gap essential for farming operations shall not be deemed a dam obstruction of the flow of the stream unless it results in an impoundment of the waters of the Kings River;

(2) Any business or industry located on or near the Kings River to engage in any dumping or drainage or to permit any seepage into the Kings River that would affect the quality of the waters of the Kings River in violation of any rule of the Arkansas Pollution Control and Ecology Commission;

(3) Any person, firm, or corporation to establish any platted subdivision within fifty feet (50') of the normal bank of the Kings River; and

(4) Any person, firm, or corporation to construct any nonfarm building or other structure within fifty feet (50') of the normal bank of the Kings River.

History. Acts 1971, No. 319, §§ 1, 2, 4; A.S.A. 1947, §§ 82-1910, 82-1911, 82-1913; Acts 2019, No. 315, § 1143.

Amendments. The 2019 amendment substituted "rule" for "regulation" in (c)(2).

SUBCHAPTER 2 — ARKANSAS WATERWAYS COMMISSION

SECTION.

15-23-203. Director.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-23-203. Director.

The Arkansas Waterways Commission may employ a Director of the Arkansas Waterways Commission as authorized by law and fix the

salary of the director within the limitations of funds appropriated therefor to assist the commission in the performance of its duties under this subchapter.

History. Acts 1967, No. 242, § 3; A.S.A. 1947, § 21-1703; Acts 2019, No. 910, § 467.

Amendments. The 2019 amendment substituted “Director” for “Employees” in the section heading; substituted “a Director of the Arkansas Waterways Commis-

sion” for “an Executive Director of the Arkansas Waterways Commission”; deleted “and such other employees” preceding “as authorized by law”; and substituted “salary of the director” for “salaries thereof”.

SUBCHAPTER 3 — ARKANSAS NATURAL AND SCENIC RIVERS SYSTEM ACT

SECTION.

15-23-303. Definitions.

15-23-313. Specific designations — Prohibitions — Policy — Exemptions.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-23-303. Definitions.

As used in this subchapter:

(1) “Arkansas Natural and Scenic Rivers System” means those rivers or sections thereof designated as natural and scenic rivers by act of the General Assembly;

(2) “Natural rivers” means those rivers or sections thereof that are generally free from man-made impoundments and may have primitive, undeveloped roads whose lands are essentially primitive, i.e., with a minimal amount of disturbance by people. The water shall have the use classification AA according to the 1976 Arkansas water quality inventory report by the Arkansas Department of Environmental Quality, now known as the “Division of Environmental Quality”;

(3) “Pastoral rivers” means rivers or sections thereof which are readily accessible, have some housing or other development near their shorelines, have preexisting impoundments that do not substantially alter the character and quality of the stream, partially or predomi-

nantly flow through agricultural areas, and have the use classification B according to the 1976 Arkansas water quality inventory report by the Arkansas Department of Environmental Quality, now known as the "Division of Environmental Quality";

(4)(A) "River" or "stream" means a natural body of water having a natural channel with a discernible bed and banks, including springs, lakes, marshes, swamps, sloughs, and brakes through which it may flow.

(B) The flow of a stream may be intermittent and at such irregular intervals as is characteristic of stream water resources in the surrounding area; and

(5)(A) "Scenic rivers" means rivers or sections thereof that are largely free of impoundments.

(B) The scenic rivers' shorelines may have a moderate amount of human disturbance which does not substantially interfere with the public use or fish and wildlife, natural vegetation, or water quality of the river.

History. Acts 1979, No. 257, § 8; A.S.A. 1947, § 9-1208; Acts 1999, No. 1164, §§ 134, 135; 2019, No. 910, §§ 3066, 3067.

Amendments. The 2019 amendment added "now known as the Division of En-

vironmental Quality" in (2); and substituted "Arkansas Department of Environmental Quality, now known as the 'Division of Environmental Quality'" for "department" in (3).

15-23-313. Specific designations — Prohibitions — Policy — Exemptions.

(a)(1) Notwithstanding any other provisions of this subchapter, the following segments of rivers or streams are designated as components of the Arkansas Natural and Scenic Rivers System:

(A) The Cossatot River, from Gillham Reservoir, Section 8, Township 5 South, Range 30 West, upstream to its headwaters near Baker Mountain, South Line of Section 15, Township 3 South, Range 30 West;

(B) The Strawberry River, from the line dividing Sharp County and Izaard County, Section 12, Township 17 North, Range 7 West, upstream to its headwaters near Byron, North Line of Section 3, Township 19 North, Range 9 West;

(C) The Saline River, from its confluence with the Ouachita River, Section 9, Township 18 South, Range 10 West, upstream to the Saline-Grant County line; and

(D) The Little Missouri River, from the upper end of Lake Greeson, South Line of Section 31, Township 5 South, Range 26 West, upstream to its headwaters south of Big Fork, Center of Section 32, Township 3 South, Range 28 West.

(2) The requirement of establishing an advisory committee or developing a management plan as specified in §§ 15-23-308, 15-23-311, and 15-23-312 are waived for the segments of rivers or streams designated as components of the system pursuant to this section.

(b) The following provisions shall apply only to river segments and stream segments designated as components of the system pursuant to this section:

(1)(A) It shall be unlawful for any person to construct any permanent dam or other structure that would impound waters in the principal bed of any of the river segments or stream segments designated as components of the system pursuant to subsection (a) of this section.

(B) However, the establishment or maintenance of a water gap fence or low water bridge shall not be deemed a dam obstruction of the flow of such a river or stream unless the water gap fence results in impoundment of the waters of the river or stream; and

(2)(A) It shall be unlawful for any person to channelize or realign the principal channel of any of the river segments designated as components of the system pursuant to subsection (a) of this section.

(B) However, the clearing, snagging, or removing of river channel blockages caused by floods or other acts of nature shall not be deemed channelization.

(c) A violation of subsection (b) of this section shall be a Class C misdemeanor.

(d)(1) The Arkansas Natural Heritage Commission is authorized to apply for and the court is authorized to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any provision of this section or any rule promulgated under this section, notwithstanding the existence of other remedies at law.

(2) The injunction shall be issued without bond.

(e)(1) This section shall be construed so as to obtain reasonable conservation of waters in the streams designated in this section.

(2) The policy of this state is to:

(A) Protect the designated streams and the fish and wildlife in and around those streams;

(B) Maintain proper ecological balance;

(C) Protect water quality;

(D) Protect natural and scenic beauty;

(E) Protect riparian landowner rights; and

(F) Protect and preserve the designated streams in their natural and scenic state for future generations.

(f) None of the provisions of this section shall:

(1) Prohibit the continued use of all existing water intake structures and appurtenances for the purpose of withdrawal of surface water for any and all beneficial uses;

(2) Prohibit the construction of water intake structures in the future; or

(3) Be deemed to in any way impair or interfere with the continuation of the present uses of lands along any river or stream.

History. Acts 1979, No. 257, § 17 as added by Acts 1985, No. 689, § 2; 1985, No. 689, §§ 1, 3; A.S.A. 1947, §§ 9-1215 — 9-1217; Acts 1997, No. 1023, § 9; 1997 No. 1049, § 1; 2019, No. 315, § 1144.

Amendments. The 2019 amendment

deleted “or regulation” following “rule” in (d)(1).

SUBCHAPTER 5 — RED RIVER COMPACT

SECTION.

15-23-503. Commissioners.

A.C.R.C. Notes. Acts 2021, No. 501, § 29, provided: “Legislative intent related to Red River Compact Commission and Red River Commission.

“(a) The Red River Compact Commission was transferred as a state agency to the Department of Agriculture in error by Acts 2019, No. 910.

“(b) It is the intent of this act to remove the Red River Compact Commission from the Department of Agriculture and for the Red River Compact Commission to resume all of the previous powers, duties, and functions as existed under § 15-23-501 et seq. before the transfer.

“(c) It is further the intent of this act to transfer the Red River Commission to the Department of Agriculture through a cabinet-level department transfer.”

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by

the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

15-23-503. Commissioners.

The two (2) commissioners representing the State of Arkansas as provided by Section 9.01 of the compact ratified by this subchapter shall be designated as follows:

(1) The Secretary of the Department of Agriculture or such other state agency as may hereafter succeed to the powers and responsibilities of the Arkansas Natural Resources Commission; and

(2) Any individual who resides within the basin of the Red River and its tributaries in Arkansas, to be appointed by the Governor with the advice and consent of the Senate and to serve a term of seven (7) years.

History. Acts 1979, No. 201, § 3; A.S.A. 1947, § 9-1603; Acts 2019, No. 910, § 86.

Amendments. The 2019 amendment substituted “Secretary of the Department

of Agriculture” for “Director of the Arkansas Natural Resources Commission” in (1).

SUBCHAPTER 8 — OUACHITA RIVER COMMISSION**SECTION.****15-23-804. Members.**

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

Acts 2021, No. 928, § 7: July 1, 2021. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that the Ouachita River Commission preserves the public peace, health, and safety by studying, planning, and implementing needed improvements and projects to and along the main stem of the Ouachita River; that this act provides for the transfer of the Ouachita River Commission to the Department of Parks, Heritage, and Tourism; and that this act should become effective on July 1, 2021, to coincide with the appropriation bills of the Department of Agriculture and Department of Parks, Heritage, and Tourism and ensure that the Ouachita River Commission continues to provide its vital services as the transfer is implemented and does not experience any issues with funding under the transfer. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2021."

15-23-804. Members.

(a)(1) The Ouachita River Commission shall be composed of nine (9) members.

(2) The members shall be appointed by the Governor as follows:

- (A) One (1) who is a resident and elector of Clark County;
- (B) One (1) who is a resident and elector of Ouachita County;
- (C) One (1) who is a resident and elector of Calhoun County;
- (D) One (1) who is a resident and elector of Union County;
- (E) One (1) who is a resident and elector of Bradley County;
- (F) One (1) who is a resident and elector of Ashley County;
- (G) One (1) who is a resident and elector of Hot Spring County;
- (H) One (1) who is a resident and elector of Dallas County; and
- (I) One (1) who is the highest-ranking official of the Ouachita River Valley Association and who is a resident of Arkansas.

(3) The Governor's appointment shall be with the advice and consent of the Senate.

(b) Prior to entering upon the Ouachita River Commission's duties, each member of the Ouachita River Commission shall take, subscribe, and file in the office of the Secretary of State an oath to support the United States Constitution and the Arkansas Constitution and to faithfully perform the duties of the office upon which he or she is about to enter.

(c)(1) Members shall be appointed for seven-year staggered terms to be assigned by lot.

(2) The terms shall commence on September 1 of each year and the first term shall expire on September 1, 2001.

(3) Every year thereafter, one (1) member's term shall expire.

(d) The Ouachita River Commission shall annually select by majority vote one (1) of its members to serve as chair and one (1) to serve as vice chair.

(e) In the event of a vacancy on the Ouachita River Commission for any reason other than expiration of a regular term, the vacancy shall be filled for the unexpired portion of the term by appointment of the Ouachita River Commission member in subdivision (a)(2) of this section of a person meeting the same qualifications required for initial appointment.

(f) Members of the Ouachita River Commission shall receive no pay for their services, but whenever the General Assembly shall have appropriated funds to the Ouachita River Waterways Project Trust Fund administered by the Department of Parks, Heritage, and Tourism, they may, upon proper application to the department, be reimbursed for expenses in accordance with § 25-16-902.

History. Acts 1999, No. 1532, § 4; 2001, No. 7, § 2; 2001, No. 314, § 2; 2019, No. 910, § 87; 2021, No. 928, § 1.

Amendments. The 2019 amendment inserted "through the Department of Agriculture" in (f).

The 2021 amendment, in (f), substituted "Department of Parks, Heritage,

and Tourism" for "Arkansas Natural Resources Commission through the Department of Agriculture" and substituted "department" for "Arkansas Natural Resources Commission".

SUBCHAPTER 9 — ARKANSAS PORT PRIORITY IMPROVEMENT PROGRAM ACT

SECTION.

15-23-904. Authority to establish programs.

15-23-905. Port Priority Improvement Program.

SECTION.

15-23-906. Application and award.

15-23-904. Authority to establish programs.

(a) The Arkansas Waterways Commission, working in partnership with the Arkansas Economic Development Commission, may establish by rule the criteria of eligibility for awarding funds to any public port authority to aid in the development of port infrastructure, including the engineering and construction costs.

(b) The rules shall be reviewed by the House Committee on Public Transportation and the Senate Committee on Public Transportation, Technology, and Legislative Affairs.

History. Acts 2001, No. 1546, § 1; substituted “rule” for “rules and regulations” in (a); and deleted “and regulations” 2019, No. 315, § 1145.

Amendments. The 2019 amendment following “rules” in (b).

15-23-905. Port Priority Improvement Program.

The Arkansas Waterways Commission’s rules for the Port Priority Improvement Program shall, as a minimum:

(1) Provide for the commission to administer the program authorized under this subchapter;

(2) Require the commission to take the necessary actions to ensure that the funds are used for the purposes for which they are to be awarded and that they are expended in accordance with all state laws and local ordinances and procedures and regulations;

(3) Specify:

(A) The procedure for receiving applications;

(B) Who is eligible to apply;

(C) The goals and objectives of the program for public port infrastructure development; and

(D) The procedures for awarding funds;

(4) Require the public port authority to file a performance review report with the commission for three (3) consecutive years following completion of the project comparing actual benefits with the projected benefits associated with the project as stated in the application for funding;

(5) Require that each public port authority provide matching funds equal to at least ten percent (10%) of the estimated cost of the port infrastructure project for which an application is made;

(6) Provide that eligible port infrastructure development projects shall be only for capital improvement projects and shall not be used for any routine maintenance or operational expenses; and

(7) Provide that no individual port shall receive more than twenty percent (20%) of the total amount available for public port infrastructure development projects.

History. Acts 2001, No. 1546, § 1; deleted “and regulations” following “rules” 2019, No. 315, § 1146.

Amendments. The 2019 amendment

15-23-906. Application and award.

(a) The Arkansas Waterways Commission shall promulgate the application format to be used in applying for funding through the Port Priority Improvement Program.

(b) All applications shall be submitted as required by the establishing rules.

(c) After receipt of the application, the Arkansas Waterways Commission, working in partnership with the Arkansas Economic Development Commission, shall review the applications and shall select the applications by rank order which will best fulfill the goals and objectives of the program as described by the program's rules. The Arkansas Waterways Commission shall then make awards to the applicants based on their rank order on the list of applications.

(d) The projects may be funded until all funds available for this purpose have been expended.

History. Acts 2001, No. 1546, § 1; deleted "and regulations" following "rules" 2019, No. 315, § 1147. in (b).

Amendments. The 2019 amendment

SUBCHAPTER 10 — BUFFALO RIVER CONSERVATION COMMITTEE

SECTION.

15-23-1001. Legislative findings.

15-23-1002. Buffalo River Conservation Committee.

15-23-1001. Legislative findings.

The General Assembly finds that:

(1) The Buffalo National River holds distinction as the first national river in the United States of America and is a vital landmark to the people of the State of Arkansas and to the nation;

(2) The Buffalo National River is one of the state's and indeed the nation's premier rivers and is a source of scenic beauty, a unique habitat for local biota, an agricultural resource to the state as a whole, and a preeminent tourism destination in the State of Arkansas;

(3) The State of Arkansas is committed to the protection and preservation of this irreplaceable natural and cultural resource for all future generations of Arkansans and for the many tourists the Buffalo National River brings to the state;

(4) The State of Arkansas recognizes the valuable contributions made by agricultural producers, the tourism industry, and the individual landowners within the Buffalo River Watershed;

(5) There is an ongoing need for the state to partner with local stakeholders to proactively manage the Buffalo River Watershed in order to ensure the Buffalo National River is maintained to the highest level of water quality;

(6) On September 30, 2016, the Beautiful Buffalo River Action Committee was formed by directive from the Governor to more comprehensively address conservation and environmental concerns in the Buffalo River Watershed;

(7) The Beautiful Buffalo River Action Committee successfully developed a watershed management plan and identified areas of need within the watershed, laying the foundation for future partnership with local stakeholders, federal partners, and other partners to leverage funding for projects to improve the Buffalo River Watershed; and

(8) The establishment of the Buffalo River Conservation Committee is necessary to establish measurable objectives and lead partnership projects to benefit water quality and resource management in the Buffalo River Watershed.

History. Acts 2021, No. 785, § 1.

15-23-1002. Buffalo River Conservation Committee.

(a) The Buffalo River Conservation Committee is created to establish measurable objectives and lead partnership projects to benefit water quality and resource management in the Buffalo River Watershed.

(b) The committee members shall be appointed by and serve at the pleasure of the Governor.

(c) The committee shall be composed of the:

(1) Secretary of the Department of Energy and Environment or his or her designee;

(2) Secretary of the Department of Agriculture or his or her designee;

(3) Secretary of the Department of Parks, Heritage, and Tourism or his or her designee;

(4) Secretary of the Department of Health or his or her designee;

(5) County judge of Newton County; and

(6) County judge of Searcy County.

(d) The chair of the committee shall be designated by the Governor.

(e) The committee shall:

(1) Work in cooperation with each member to identify opportunities to leverage each member's respective department's unique expertise, relationships, focus areas, and funding mechanisms in support of the vitality of the Buffalo River Watershed;

(2) Conduct an annual review of the Buffalo River Watershed Management Plan and include recommendations for updates of the plan and a report on successes during the year, as identified by the committee, to be submitted to the Governor;

(3)(A) Establish subcommittees to lead various aspects of implementing the Buffalo River Watershed Management Plan.

(B) The subcommittees shall identify opportunities for training, relationship building, and specific projects, all of which shall be in service to preserving and enhancing water quality within the Buffalo River Watershed;

(4) Further develop the concepts from the Buffalo River Watershed Management Plan to incorporate additional tools and strategies as necessary;

(5) Consciously consider and act on the most recent pertinent available data related to water quality concerns and opportunities in the Buffalo River Watershed;

(6) Create an emphasis on action items that engage local stakeholders and landowners that have both a positive impact on water quality and are beneficial for landowners within the Buffalo River Watershed; and

(7) Consider the continued sampling and analysis of water quality data throughout the Buffalo River Watershed as vital for informing the work of the committee and its member agencies and organizations.

(f) In establishing subcommittees under subdivision (e)(3) of this section, the committee shall engage and include the following key stakeholders:

- (1) Local landowners;
- (2) Conservation organizations;
- (3) Environmental and technical experts;
- (4) Representatives of the tourism industry;
- (5) Local, county, and municipal officials; and
- (6) Federal partners.

History. Acts 2021, No. 785, § 1.

CHAPTER 24

FLOOD CONTROL

SECTION.

15-24-107. Eminent domain.

15-24-107. Eminent domain.

(a) The Arkansas Natural Resources Commission, when necessary for the purpose of this chapter, shall have a dominant right of eminent domain over the right of eminent domain of railroads, telegraph, telephone, gas, water power, and other companies and corporations and over counties, townships, cities, and villages.

(b) In the exercise of this right, due care shall be taken to cause no unnecessary damage to other public utilities.

(c)(1) The commission shall also have the right to condemn for the use of any project any land or property necessary for the purpose of this chapter and appropriate the land or property in the same manner as lands, rights-of-way, and easements are acquired by the Arkansas Department of Transportation.

(2) No power of eminent domain nor appropriation shall exist in the commission over any lands or property within the boundaries of any levee district or drainage district now existing or hereafter organized.

(3) Nor shall the powers of eminent domain vested in any levee district or drainage district be limited in any manner by this chapter unless by the voluntary consent of the levee district or drainage district through its governing board by contract, to be approved and recorded in the manner provided in this chapter.

History. Acts 1937, No. 212, § 15; substituted “Arkansas Department of Pope’s Dig., § 12190; A.S.A. 1947, § 9-Transportation” for “Arkansas State 807; Acts 2017, No. 707, § 36. Highway and Transportation Depart-

Amendments. The 2017 amendment ment” in (c)(1).

SUBTITLE 3. FOREST RESOURCES**CHAPTER 31****ARKANSAS FORESTRY COMMISSION****SUBCHAPTER.**

1. GENERAL PROVISIONS.
2. ASSISTANCE TO PRIVATE OWNERS.

SUBCHAPTER 1 — GENERAL PROVISIONS**SECTION.**

- 15-31-104. State Forester.
15-31-105. [Repealed.]
15-31-106. Functions, powers, and duties.
15-31-107. [Repealed.]
15-31-110. [Repealed.]
15-31-111. Fees.

SECTION.

- 15-31-112. [Repealed.]
15-31-113. Legislative findings — Purpose.
15-31-116. Donation of fire control or fire rescue equipment — Definition.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

15-31-104. State Forester.

(a) The State Forester shall be appointed by the Arkansas Forestry Commission, with the approval of the Governor, and shall serve at the pleasure of the Governor.

(b) The State Forester shall report to the Secretary of the Department of Agriculture.

(c)(1) The secretary may delegate to the State Forester any of the powers or duties required to administer the:

(A) Statutory duties of the Arkansas Forestry Commission; and

(B) Rules, orders, or directives promulgated or issued by the commission.

(2) The State Forester may exercise the powers and duties delegated to him or her under subdivision (c)(1) of this section in the name of the commission and the department.

(3) The commission may delegate to the department any of the powers or duties vested in or imposed upon the commission by law, and these delegated powers or duties may be exercised by the secretary or his or her designee.

(d) The State Forester shall:

(1) Have earned at a minimum a bachelor's degree in forestry from an accredited four-year program at an institution of higher education; and

(2) Have not less than three (3) years' practical administrative and field experience in forestry.

History. Acts 1953, No. 42, § 7; 1983, No. 691, § 7; A.S.A. 1947, §§ 9-701.1a, 9-701.7; Acts 1995, No. 136, § 2; 1995, No. 138, § 2; 2019, No. 315, § 1148; 2019, No. 910, § 88.

A.C.R.C. Notes. Acts 2019, No. 315, § 1148, amended former subdivision (2)(A) of this section to delete "regula-

tions". However, Acts 2019, No. 910, § 88, specifically repealed this subdivision.

Amendments. The 2019 amendment by No. 315 deleted "regulations" following "rules" in (2)(A).

The 2019 amendment by No. 910 rewrote the section.

15-31-105. [Repealed.]

Publisher's Notes. This section, concerning personnel, was repealed by Acts 2019, No. 910, § 89, effective July 1, 2019. The section was derived from Acts 1953,

No. 42, § 7; 1959, No. 150, § 1; A.S.A. 1947, §§ 9-701.7, 9-737; Acts 2005, No. 78, § 1.

15-31-106. Functions, powers, and duties.

(a) The functions, powers, and duties of the Arkansas Forestry Commission shall be to:

(1) [Repealed.]

(2) Formulate and put into effect policies, plans, and reasonable rules as may be necessary to achieve the mission of the commission;

(3) [Repealed.]

(4) Assemble and publicize all available information pertinent to industrial opportunities in forestry, both in respect to particular sections and the state as a whole, including the varieties of trees and the products producible therefrom, the power and water resources, transportation facilities, available markets, labor supply, and industrial sites, all to the end of encouraging both the establishment of new industrial enterprises utilizing forest resources and the expansion of existing enterprises;

(5) Assist private landowners, and when called upon, the agency of the state having control of the state park system, in managing their timber under approved forestry practices;

(6) Furnish educational information in forestry matters for landowners and timber processors, and civic, school, and other interested groups, including the preparation and dissemination, through various available media, of information relating to fire prevention and control,

detection and control of disease and insect infestation, and approved methods of timber harvesting and artificial reforestation;

(7) Originate and conduct research in forestry matters and cooperate with other agencies, both public and private, in any such projects;

(8) Purchase, lease, rent, or sell and receive bequests or donations of any real, corporeal, or personal property, and, when necessary to properly carry out its functions, to acquire any real property by the exercise of its right of eminent domain, such right being vested in the commission;

(9) Contract and be contracted with; and

(10) Take such other action, not inconsistent with law, as it may deem necessary or desirable to carry out the intent and purposes of this chapter.

(b)(1) The commission shall also have and be subject to all other functions, powers, and duties as by this chapter are conferred and imposed upon it.

(2) For the purpose of regulating the commission's own procedure and carrying out its transferred or newly provided functions, the commission shall have the authority, from time to time, to make and amend and enforce all reasonable rules not inconsistent with law which will aid in the performance of any of the functions, powers, or duties conferred or imposed upon it by law.

History. Acts 1931, No. 234, § 2; Pope's Dig., § 12196; Acts 1953, No. 42, §§ 4, 5; 1955, No. 99, § 2; 1963, No. 249, § 3; A.S.A. 1947, §§ 9-701, 9-701.4, 9-701.5; Acts 1999, No. 27, § 3; 2019, No. 315, §§ 1149, 1150; 2019, No. 910, §§ 90-92.

Amendments. The 2019 amendment

by No. 315 deleted "and regulations" following "rules" in (a)(2) and made a similar change in (b)(2).

The 2019 amendment by No. 910 repealed (a)(1); rewrote (a)(2); and repealed (a)(3).

15-31-107. [Repealed.]

Publisher's Notes. This section, concerning employment of relatives, was repealed by Acts 2019, No. 910, § 93, effective July 1, 2019. The section was derived

from Acts 1985, No. 464, § 3; A.S.A. 1947, § 9-743; Acts 1989 (1st Ex. Sess.), No. 183, § 13; 1991, No. 441, § 13.

15-31-110. [Repealed.]

Publisher's Notes. This section, concerning uniform allowance, was repealed by Acts 2019, No. 910, § 94, effective July 1, 2019. The section was derived from Acts 1975, No. 415, § 9; 1975 (Extended Sess.,

1976), No. 1195, § 3; 1979, No. 444, § 1; 1983, No. 201, § 10; A.S.A. 1947, §§ 9-738, 9-738.1; reen. Acts 1987, No. 1024, § 1; 1989 (1st Ex. Sess.), No. 183, § 12; 1991, No. 674, § 1.

15-31-111. Fees.

(a) The Arkansas Forestry Commission is authorized to charge private landowners a rate not to exceed four dollars (\$4.00) per acre for the preparation of timber management plans.

(b) The proceeds from the charge shall be used to provide for the maintenance, operation, and improvement of the commission.

(c) The commission is authorized to promulgate such rules necessary to administer the fees, rates, tolls, or charges for services established by this section and is directed to prescribe and collect such fees, rates, tolls, or charges for the services delivered by the commission in such manner as may be necessary to support the programs of the commission as directed by the Governor and General Assembly.

History. Acts 1993, No. 865, §§ 2, 3; 1993, No. 1112, §§ 2, 3; 2019, No. 315, § 1151.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (c).

15-31-112. [Repealed.]

A.C.R.C. Notes. Acts 2019, No. 315, § 1152, amended former § 15-31-112 to replace “regulation” and “regulations” with “rule” and “rules”. However, Acts 2019, No. 910, § 95, specifically repealed this section.

Publisher’s Notes. This section, concerning enforcement of poison spring state forest regulations, was repealed by Acts 2019, No. 910, § 95, effective July 1, 2019. The section was derived from Acts 1997, No. 123, § 1; 2019, No. 315, § 1152.

15-31-113. Legislative findings — Purpose.

(a) The General Assembly finds:

(1) The Arkansas Forestry Commission enforces laws pertaining to wildland fires, timber theft, and unlawful dumping on forest land;

(2) Under current law, fines resulting from violations of the wildland fire laws are deposited with local school districts; and

(3) The law is silent on where to deposit fines resulting from violations of the dumping and timber theft laws.

(b) The purpose of this section and § 15-31-114 is to establish that fines generated by law enforcement activities of the commission be deposited into the State Forestry Fund.

History. Acts 1997, No. 132, § 1; 2005, No. 1962, § 71; 2017, No. 374, § 36.

substituted “§ 15-31-114” for “§§ 15-31-114 and 5-38-201 [repealed]” in (b).

Amendments. The 2017 amendment

15-31-116. Donation of fire control or fire rescue equipment — Definition.

(a)(1) A person may donate fire control or fire rescue equipment to the Arkansas Forestry Commission for the commission’s use or for distribution to volunteer fire departments by the commission.

(2) Breathing apparatus that is donated to the commission shall be recertified to the manufacturer’s specifications by a technician certified by the manufacturer before it is used by the commission or made available to a volunteer fire department.

(b)(1) A person is not liable in civil damages for personal injury, property damage, or death resulting from a defect in equipment donated in good faith by a person under this section unless the person’s

act or omission proximately causing the claim, damage, or loss constitutes malice, gross negligence, recklessness, or intentional misconduct.

(2) The commission, the State Forester, the Department of Agriculture, the Secretary of the Department of Agriculture, and other officers and employees of the department are not liable in civil damages for personal injury, property damage, or death resulting from a defect in equipment sold, loaned, or otherwise made available in good faith by the State Forester under this section unless the act or omission of the commission, the State Forester, the department, the secretary, or the officer or employee of the department proximately causing the claim, damage, or loss constitutes malice, gross negligence, recklessness, or intentional misconduct.

(c) As used in this section, “fire control or fire rescue equipment” means and includes vehicles, firefighting tools, protective gear, breathing apparatus, and other supplies and tools used in firefighting or fire rescue.

History. Acts 1999, No. 106, § 1; 2019, No. 910, § 96.

Amendments. The 2019 amendment, in (b)(2), inserted “the Department of Agriculture, the Secretary of the Depart-

ment of Agriculture”, inserted “of the department”, and substituted “the department, the secretary, or the officer or employee of the department” for “officer, or employee”.

SUBCHAPTER 2 — ASSISTANCE TO PRIVATE OWNERS

SECTION.

15-31-204. Employee interest in the purchase of estimated timber.

15-31-204. Employee interest in the purchase of estimated timber.

(a) An employee of the Arkansas Forestry Commission shall not be directly or indirectly interested in the purchase of timber estimated under this subchapter.

(b) If an employee of the commission violates this section or if a person aids or abets an employee of the commission in the violation of this section, upon conviction he or she is guilty of a violation and shall be fined in a sum of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) and if employed by the commission, he or she shall be removed from employment with the commission.

History. Acts 1947, No. 163, § 4; A.S.A. 1947, § 9-720; Acts 2017, No. 374, § 37.

Amendments. The 2017 amendment rewrote the section.

CHAPTER 32**LOGGING**

SUBCHAPTER.

3. TRESPASS AND UNLAWFUL CUTTING.

5. TIMBER SALES.

SUBCHAPTER 3 — TRESPASS AND UNLAWFUL CUTTING

SECTION.

15-32-304. Verification of complaint — Issuance and service of summons.

15-32-305. Return of officer when no one in possession — Warning order — Appeals.

SECTION.

15-32-309. Trespass or waste — Communicating information.

15-32-311. Payment of funds into State Treasury.

15-32-304. Verification of complaint — Issuance and service of summons.

(a) The complaint required by § 15-32-303 shall be sworn to by the county timber inspector or any credible witness.

(b)(1) On the filing of the complaint, the clerk of the court shall issue a summons against the persons so named in the complaint as defendants commanding them to appear as in other actions at law before the court and show cause why the property mentioned in the complaint shall not be adjudged to be the property of the State of Arkansas.

(2) The summons shall be served in the same manner as a summons in any other cause, and the trial of the cause shall proceed in all respects as the trial of other civil actions.

History. Acts 1883, No. 83, § 7, p. 140; 1901, No. 130, § 15, p. 202; C. & M. Dig., § 7007; Pope's Dig., § 8987; A.S.A. 1947, § 54-206; Acts 2017, No. 374, § 38.

Amendments. The 2017 amendment, in (b)(1), deleted "in case the complaint is

filed in a court of record or the justice of the peace in case the complaint is filed with a justice of the peace" following "the clerk of the court" and "or justice" preceding "and show cause".

15-32-305. Return of officer when no one in possession — Warning order — Appeals.

(a) If a person is not found in possession of the logs, timber, lumber, staves, shingles, shingle bolts, stocks, headings, wood, bark, stone, mineral, or other material described in the complaint required under § 15-32-303 and a person does not claim the logs, timber, lumber, staves, shingles, shingle bolts, stocks, headings, wood, bark, stone, mineral, or other material described in the complaint required under § 15-32-303, or if the officer whose duty it is to serve the summons fails to find the parties named in the summons, then, upon the return of the officer or upon the oath of the county timber inspector or other person acting under his or her authority, the clerk of the court shall make out

a warning order and publish the warning order as is now provided by law in proceedings by attachment.

(b) Appeals may be prosecuted in any such cause the same as in other civil actions.

(c) In case the State of Arkansas appeals, no bond shall be required.

History. Acts 1883, No. 83, § 7, p. 140; 1901, No. 130, § 16, p. 202; C. & M. Dig., § 7008; Pope's Dig., § 8988; A.S.A. 1947, § 54-207; Acts 2017, No. 374, § 39.

Amendments. The 2017 amendment rewrote (a).

15-32-309. Trespass or waste — Communicating information.

All county sheriffs and township officers shall immediately communicate to the prosecuting attorney and county timber inspector any information received by them respecting the commission of any trespass or waste on any public lands.

History. Acts 1883, No. 83, § 22, p. 140; 1901, No. 130, § 20, p. 202; C. & M. Dig., § 7012; Pope's Dig., § 8992; A.S.A. 1947, § 54-211; Acts 2017, No. 374, § 40.

Amendments. The 2017 amendment deleted "and filing complaint" following "information" at the end of the section

heading; substituted "shall" for "are especially charged to", deleted "and all" preceding "information", and deleted "and to enter complaint against the offender before some justice of the peace" following "lands".

15-32-311. Payment of funds into State Treasury.

(a) All moneys received from the sale of logs, timber, lumber, shingles, minerals, or other articles from public lands that were seized under this subchapter and all moneys recovered in legal proceedings under this subchapter for damages done to public lands, after paying the county timber inspectors, prosecuting attorneys, and witnesses as provided in § 15-32-308, shall be deposited into the State Treasury to the credit of the respective funds that are used to administer the public lands.

(b) All other moneys collected as expenses, fees, penalties, and damages for trespass on public lands shall be deposited into the General Revenue Fund Account of the State Apportionment Fund.

History. Acts 1883, No. 83, § 24, p. 140; 1901, No. 130, § 22, p. 202; C. & M. Dig., § 7015; Pope's Dig., § 8995; A.S.A. 1947, § 54-214; Acts 2017, No. 374, § 41.

Amendments. The 2017 amendment added the (a) and (b) designations; in (a), inserted "from public lands that were", substituted "and all moneys" for "or", in-

serted "under this subchapter", and substituted "deposited" for "paid" and "that are used to administer the public lands" for "to which the lands"; in (b), substituted "public lands" for "such lands", "deposited" for "paid", and "General Revenue Fund" for "general fund"; and made stylistic changes.

SUBCHAPTER 5 — TIMBER SALES

SECTION.

15-32-501. Co-owners and coheirs.

15-32-501. Co-owners and coheirs.

(a) A co-owner or coheir of land may execute an act of timber sale whereby he or she sells his or her undivided interest in the timber, and any condition imposing a time period within which to remove the timber shall commence from the date of its execution.

(b)(1) A buyer may purchase the timber from unknown or unlocatable co-owners or coheirs of land and may remove the timber without the consent of the unknown or unlocatable co-owners or coheirs when:

(A) At least sixty percent (60%) of the ownership interest in the land has consented;

(B) He or she has made a diligent search and inquiry for any unknown or unlocatable co-owners or coheirs, including publishing a notice in a newspaper of general circulation in the county in which the property is located in accordance with subdivision (b)(2) of this section, and after diligent search and inquiry, he or she is unable to ascertain and locate any other co-owners or coheirs; and

(C)(i) He or she has filed with the circuit clerk of the county in which the property is located a record of his or her diligent search and inquiry, together with a certificate of affirmation under the penalties of perjury that the facts stated therein are within his or her personal knowledge and are true, for which the circuit clerk may charge the same fees as are allowed by law for similar services.

(ii) The circuit clerk shall maintain these records for a period of five (5) years.

(2)(A) The notice required by this section shall be published weekly for two (2) consecutive weeks in a newspaper having general circulation in the county in which the land is located, the last date of publication being not more than forty (40) nor less than twenty (20) days from the date on which timber may be removed from the property pursuant to a proposed contract.

(B) The notice shall contain:

(i) A description of the real property on which the timber is located;

(ii) The names and addresses of the known owners;

(iii) The names and addresses of the potential buyers;

(iv) A statement that the potential buyers and the known owners of the property intend to enter into a contract for the removal of timber from the land described;

(v) The date on which timber, pursuant to the intended contract, may be removed from the land;

(vi) The name and address of the person to whom an unknown owner may make his or her interest known; and

(vii) A statement that any unknown owner must make his or her interest known before the date that timber may be removed from the land pursuant to the intended contract.

(3) A buyer who does not conduct a diligent search and inquiry shall be liable in treble damages to any alleged unknown or unlocatable owners or heirs.

(4) A buyer who knows and locates but does not contract with a co-owner or coheir shall be liable in treble damages to the alleged unknown and unlocatable co-owner or coheir.

(c)(1) A co-owner or coheir of the land who does not consent to the exercise of such rights has no liability for the cost of timber operations resulting from the sale of the timber and shall receive from the buyer the same price which the buyer paid to the other co-owners or coheirs.

(2) The consenting co-owners or coheirs shall agree to indemnify and hold harmless the nonconsenting co-owners or coheirs for any damage or injury claims which may result from such operations.

(d)(1) If the nonconsenting co-owner or coheir fails or refuses to claim his or her portion of the sale price of the timber, the buyer shall transmit to the clerk of the circuit court for deposit into the registry of the circuit court that portion of the sales price, there to be held in escrow for and on behalf of the nonconsenting co-owner or coheir, and any interest or other income earned by the funds shall inure to the benefit of the co-owner or coheir.

(2) Any of the funds not claimed within seven (7) years after deposit into the registry of the circuit court shall escheat to the county from which the timber was severed.

(e) Failure to comply with the provisions of this section shall constitute prima facie evidence of the intent to commit theft of the timber by the buyer.

History. Acts 1995, No. 775, § 1; 2019, substituted “sixty percent (60%)” for No. 451, § 1. “eighty percent (80%)” in (b)(1)(A).

Amendments. The 2019 amendment

